

injured persons of any such county or municipality, and shall have the authority to contract with the State of Texas or agencies of the federal government for the hospitalization of sick, diseased, or injured persons."

The Committee Amendment was read and was adopted.

On motion of Senator Wilson and by unanimous consent, the caption was amended to conform to the body of the bill as amended. (31-0) (31-0)

Conclusion of Session for Consideration of Local and Uncontested Bills Calendar

The President Pro Tempore announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

Welcome Resolution

S. R. No. 1338—By Senator Bernal: Extending welcome to students and teachers of St. Gerard's Junior High School.

Adjournment

On motion of Senator Aikin the Senate at 10:15 o'clock a.m. adjourned until 11:00 o'clock a.m. Monday, May 24, 1971.

SEVENTY-FOURTH DAY

(Monday, May 24, 1971)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment, and was called to order by the President Pro Tempore.

The roll was called and the following Senators were present:

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|------------|----------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Moore |
| Brooks | Patman |
| Christie | Ratliff |
| Connally | Schwartz |
| Creighton | Sherman |
| Grover | Snelson |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |
| Hightower | |

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Saturday, May 22, 1971, was dispensed with and the Journal was approved.

Reports of Standing Committees

Senator Connally submitted the following report for the Committee on Parks and Wildlife:

H. B. No. 1759.

Senator Creighton submitted the following reports for the Committee on Water and Conservation:

H. B. No. 1541.

H. B. No. 1390 (Floor report).

H. B. No. 1391 (Floor report).

Senator Hall submitted the following reports for the Committee on County, District and Urban Affairs:

H. B. No. 1113.

H. B. No. 1062.

H. B. No. 687.

Senator Herring submitted the following report for the Committee on Jurisprudence:

S. B. No. 693.

Senator Brooks submitted the following report for the Committee on State Departments and Institutions:

S. B. No. 1030.

Senate Bills on First Reading

Senator Watson moved that Senate Rule 108 and Section 5 of Article III of the State Constitution be suspended to permit the introduction at this time, the following bills, the provisions of which were explained:

The motion prevailed by the following vote:

Yeas—31

| | |
|-----------|-----------|
| Aikin | Blanchard |
| Bates | Bridges |
| Beckworth | Brooks |
| Bernal | Christie |

| | |
|------------|----------|
| Connally | McKool |
| Creighton | Moore |
| Grover | Patman |
| Hall | Ratliff |
| Harrington | Schwartz |
| Harris | Sherman |
| Herring | Snelson |
| Hightower | Wallace |
| Jordan | Watson |
| Kennard | Wilson |
| Kothmann | Word |
| Mauzy | |

The following bills were then introduced, read first time and referred to the Committee indicated:

By Senator Watson:

S. B. No. 1031, A bill to be entitled "An Act amending Senate Bill No. 398, Acts of the 62nd Legislature, 1971, relating to providing for a minimum brucellosis blood test and an alternate bovine brucellosis test for dairy cattle; and declaring an emergency."

To Committee on Agriculture and Livestock.

By Senator Hall:

S. B. No. 1032, A bill to be entitled "An Act providing for the authorization and issuance by any city or town, which has by duly adopted resolution, order or ordinance approved or approved in principle a new community plan in connection with a new community development project under the Federal Urban Growth and New Community Development Act of 1970, of certificates of indebtedness for the purposes of acquiring, purchasing, constructing, repairing, renovating, improving, and/or equipping any public projects or facilities of any type, including streets, drainage, water supply and distribution facilities, and sewage and waste collection, disposal and treatment facilities, plants and properties, and for the purpose of planning, developing, engineering and financing such projects and the payment for professional services incident thereto and in connection therewith; providing for the manner and terms of issuance of said obligations and the security therefor; providing for their incontestability; providing for the refunding thereof; declaring them authorized investments and security for public funds and related matters;

providing for a severability clause and that this act shall be cumulative; and declaring an emergency."

To Committee on County, District and Urban Affairs.

By Senator Schwartz:

S. B. No. 1033, A bill to be entitled "An Act creating the Texas Constitution Revision Commission; prescribing duties and powers; providing for the mode of appointing its members; providing for acceptance of private grants; and declaring an emergency."

To Committee on State Departments and Institutions.

House Bills on First Reading

The following bills received from the House, were read the first time and referred to the Committees indicated:

H. B. No. 6, To Committee on Transportation.

H. B. No. 158, To Committee on County, District and Urban Affairs.

H. B. No. 458, To Committee on Water and Conservation.

H. B. No. 474, To Committee on Education.

H. B. No. 502, To Committee on State Affairs.

H. B. No. 611, To Committee on Water and Conservation.

H. B. No. 760, To Committee on County, District and Urban Affairs.

H. B. No. 776, To Committee on Education.

H. B. No. 780, To Committee on Education.

H. B. No. 782, To Committee on Legislative, Congressional and Judicial Districts.

H. B. No. 804, To Committee on State Affairs.

H. B. No. 882, To Committee on Public Health.

H. B. No. 883, To Committee on Parks and Wildlife.

H. B. No. 922, To Committee on Water and Conservation.

H. B. No. 967, To Committee on Jurisprudence.

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| H. B. No. 969, To Committee on Jurisprudence. | H. B. No. 1726, To Committee on Water and Conservation. |
| H. B. No. 1006, To Committee on Education. | H. B. No. 1731, To Committee on Water and Conservation. |
| H. B. No. 1040, To Committee on Water and Conservation. | H. B. No. 1733, To Committee on Parks and Wildlife. |
| H. B. No. 1152, To Committee on Water and Conservation. | H. B. No. 1734, To Committee on Water and Conservation. |
| H. B. No. 1154, To Committee on Water and Conservation. | H. B. No. 1757, To Committee on Water and Conservation. |
| H. B. No. 1188, To Committee on County, District and Urban Affairs. | H. B. No. 1772, To Committee on County, District and Urban Affairs. |
| H. B. No. 1273, To Committee on Insurance. | H. B. No. 1774, To Committee on Water and Conservation. |
| H. B. No. 1280, To Committee on Jurisprudence. | H. B. No. 1777, To Committee on County, District and Urban Affairs. |
| H. B. No. 1293, To Committee on State Departments and Institutions. | H. B. No. 1789, To Committee on County, District and Urban Affairs. |
| H. B. No. 1351, To Committee on Education. | H. B. No. 1794, To Committee on Water and Conservation. |
| H. B. No. 1385, To Committee on Water and Conservation. | H. B. No. 1796, To Committee on County, District and Urban Affairs. |
| H. B. No. 1459, To Committee on Legislative, Congressional and Judicial Districts. | H. B. No. 1798, To Committee on County, District and Urban Affairs. |
| H. B. No. 1472, To Committee on Jurisprudence. | H. B. No. 1831, To Committee on Parks and Wildlife. |
| H. B. No. 1489, To Committee on Parks and Wildlife. | H. B. No. 1832, To Committee on Water and Conservation. |
| H. B. No. 1510, To Committee on Transportation. | H. B. No. 1836, To Committee on Water and Conservation. |
| H. B. No. 1564, To Committee on Jurisprudence. | H. B. No. 1837, To Committee on Water and Conservation. |
| H. B. No. 1609, To Committee on Water and Conservation. | H. B. No. 1838, To Committee on Water and Conservation. |
| H. B. No. 1635, To Committee on County, District and Urban Affairs. | H. B. No. 1842, To Committee on Water and Conservation. |
| H. B. No. 1650, To Committee on Jurisprudence. | H. B. No. 1844, To Committee on Water and Conservation. |
| H. B. No. 1661, To Committee on Water and Conservation. | H. B. No. 1849, To Committee on County, District and Urban Affairs. |
| H. B. No. 1689, To Committee on Water and Conservation. | H. B. No. 1851, To Committee on State Departments and Institutions. |
| H. B. No. 1699, To Committee on Water and Conservation. | H. B. No. 1856, To Committee on Water and Conservation. |
| H. B. No. 1700, To Committee on Water and Conservation. | H. B. No. 1860, To Committee on Water and Conservation. |
| H. B. No. 1725, To Committee on Water and Conservation. | H. B. No. 1861, To Committee on County, District and Urban Affairs. |

H. B. No. 1862, To Committee on Oil and Gas.

H. B. No. 1873, To Committee on County, District and Urban Affairs.

Message From the House

Hall of the House of Representatives

Austin, Texas,
May 24, 1971.

Hon. Ben Barnes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 28, A bill to be entitled "An Act to amend Chapter 271, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 5421c, Vernon's Texas Civil Statutes), by adding a new Section 5-A providing a procedure whereby a good faith claimant and occupier of land discovered to be possibly vacant may, under specified conditions, purchase said land not to exceed 100 acres; establishing the purchase price of said land; providing for a reservation of royalty to the State on oil, gas and other minerals; providing for a patent to issue to a good faith claimant; providing that a good faith claimant shall lose his rights to purchase land if he does not timely comply with provisions of this Act; providing that this Act is cumulative of all other laws; providing that this Act shall not affect the rights of any party under any previously executed mineral deed or oil and gas lease, nor the rights of any applicant who has filed or may hereafter file an application under specified existing statute relating to vacant land; providing for notice to the Attorney General before action may be taken on the application of a good faith claimant; providing for review of action of the Land Commissioner relating to application of a good faith claimant; providing that this Act does not affect certain rights involved in litigation upon the effective date of the Act, nor the rights of the State to any oil, gas, or other minerals produced or removed from land purchased under this Act prior to issuance of patent thereon; providing that a good faith claimant with application pending upon effective date of the Act to purchase vacant land shall have benefits of the Act but shall be exempt from certain time limits provided in the Act; and declaring an emergency."

H. B. No. 124, A bill to be entitled "An Act relating to expulsion from state-supported institutions of higher education of students engaging in vandalism, destruction of property, or disruptive activities; and declaring an emergency."

H. B. No. 180, A bill to be entitled "An Act to increase the penalty for unlawful possession of lysergic acid, lysergic acid diethylamide, LSD-25, and LSD; amending Subsection (a), Section 15, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 726d, Vernon's Texas Penal Code); and declaring an emergency."

H. B. No. 686, A bill to be entitled "An Act amending the employers' liability and workmen's compensation laws of this state; amending Section 18a, of Article 8308, Revised Civil Statutes of Texas, 1925, as amended, to authorize and direct the Industrial Accident Board to collect a \$7.50 filing fee from subscribers under the Act; to allocate and disburse the fee according to the terms and provisions of Section 28, Article 8306, Revised Civil Statutes of Texas, 1925, the Workmen's Compensation Fund; providing for a savings clause; repealing all laws in conflict; and declaring an emergency."

H. B. No. 1793, A bill to be entitled "An Act amending Section 1, Chapter 224, Acts of the 56th Legislature, 1959 (Article 1109j, Vernon's Texas Civil Statutes), relating to contracts for the acquisition of water supply systems, water distribution systems and sanitary sewer systems by cities and towns; validating contracts heretofore entered into for such purposes and the proceedings relative thereto; providing a non-litigation clause; providing a severability clause; and declaring an emergency."

H. B. No. 1846, A bill to be entitled "An Act creating and establishing a conservation and reclamation district under and essential to the purposes of Article XVI, Section 59, of the Texas Constitution, to be known as 'Gulf Coast Water Control and Improvement District of Jefferson County' declaring the district a governmental agency, body politic and corporate; etc.; and declaring an emergency."

H. J. R. No. 13, Proposing an amendment to Article I, Section 11, of

the Texas Constitution, to provide that certain persons in custody for the commission of an offense may be denied bail.

H. C. R. No. 31, Granting permission to James Larry Key to sue the State of Texas and the State Highway Department.

H. C. R. No. 48, Granting permission to Jesse O. Reed to sue the State of Texas and Sam Houston State University.

H. C. R. No. 54, Granting permission to T. J. Bailey and wife, Ronda Bailey to bring suit against the State of Texas and the Highway Department of the State of Texas.

H. C. R. No. 66, Granting permission to Charles H. Skeen to institute a suit against the State of Texas.

H. C. R. No. 57, Granting permission to Frederick E. Munk, Mamie Fuller and Henry Munk to bring suit against Daniel G. Silva and the Veterans' Land Board of the State of Texas.

H. C. R. No. 69, Granting K. B. Ivey Investment Company, Inc., and Ben L. Ivey and wife, Leone D. Ivey permission to sue the State of Texas and the State Highway Department of the State of Texas.

H. C. R. No. 73, Granting permission to Robert Truxell and wife, Betty Truxell, their heirs, executors, successors, to sue the State of Texas.

H. C. R. No. 85, Granting permission to H. C. Lewis to bring suit or cross-action against Midwestern University in any court of competent jurisdiction in Travis County, Texas, to recover judgment against Midwestern University for the balance owing by Midwestern University to H. C. Lewis.

H. C. R. No. 101, Granting permission to Commercial Carpet Corporation and American Desk Manufacturing Company to bring suit against the State of Texas and North Texas State University.

H. C. R. No. 127, Granting Cockrell and Gibbs Enterprises, Inc., permission to sue the State of Texas and Robert S. Calvert, Comptroller of Public Accounts.

H. C. R. No. 134, Granting National Marine Service, Inc., permission to sue the state.

H. C. R. No. 145, Granting permission to Andrea Louise West to bring suit against the State of Texas and The University of Texas at Austin.

H. C. R. No. 147, Granting permission to the Austin Bridge Company and M. C. Winters, Inc., to sue the State of Texas and the State Highway Department.

H. C. R. No. 141, Authorizing R. Jack Wade and wife Jackie Wade to bring suit against the State of Texas.

H. C. R. No. 156, Commending the administrations of all state-supported colleges and universities as an economy move the suspension of pass lists to athletic events sponsored by them.

H. C. R. No. 159, Congratulating the City of Lindale on its 100th Anniversary.

H. C. R. No. 160, Requesting a duplicate copy of Senate Bill 748.

The House has adopted the Conference Committee Report on Senate Bill No. 460 by a non-record vote.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 369 adopted by a vote of 106 Ayes, 10 Noes.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 818. House conferees: Harris, Chairman; Neugent of Galveston, Hubenak, Braun, Nichols.

The House refused to concur in Senate amendments to House Bill No. 1163 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House conferees: Schulle, Lovell, Spurlock, Foreman, Lombardino.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 73. House conferees: Harris, Neugent of Galveston, Hubenak, Braun, Nichols.

The House has granted the request of the Senate for the appointment

of a Conference Committee on Senate Bill No. 357. House conferees: Atwell, Hull, Spurlock, Braecklein, Boyle.

The House refused to concur in Senate amendments to House Bill No. 1001 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House conferees: Hull, Chairman; Cobb, Finney, Tom Holmes, Parker of Denton.

H. B. No. 138, A bill to be entitled "An Act relating to the creation of the Texas Board of Examiners in Watchmaking, and the licensing and regulation of persons engaged in the practice of watchmaking; providing for a penalty; and declaring an emergency."

H. B. No. 685, A bill to be entitled "An Act amending the employers' liability and workmen's compensation laws of this state; amending Section 28, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, to raise the amount of tax on gross premiums of workmen's compensation policies to one-half of one percent; providing for a savings clause; repealing all laws in conflict; and declaring an emergency."

H. B. No. 1412, A bill to be entitled "An Act amending the Water Code as follows: Section 11.409, relating to interest rates on bonds purchased by the Texas Water Development Board; Section 14.061, relating to weather modification permit requirements; Section 52.113, relating to filing driller's logs with the Texas Water Rights Commission; Section 55.117, relating to the amount of the tax assessor and collector's bond; Section 55.119, relating to the compensation of the tax assessor and collector and his deputies; Section 55.300, relating to jurisdiction to determine title disputes over land being condemned by district; Section 57.120, relating to the authority of levee improvement districts to act jointly with the State of Texas; Section 52.001, relating to the definition of waste; Subsection (b) of Section 6.060, relating to witness fees and mileage; Subsection (b) of Section 6.072, relating to signatures on certified copies of Texas Water Rights Commission documents; Subsection (b) of Section 51.420, relating to de-

nomination of bonds; Subsection (b) of Section 55.425, relating to approval of depository bond by county judge; Subsection (a) of Section 55.609, relating to publication of delinquent tax record; Subsection (b) of Section 56.068, relating to the number of directors necessary to transact business of a drainage district; Subsection (a) of Section 56.211, relating to issuance of refunding bonds by certain districts; repealing Sections 1.011, 1.012, 51.148, 55.511, 55.512, and Subsection (d) of Section 5.337; and declaring an emergency."

H. B. No. 727, A bill to be entitled "An Act relating to the control of pollution in the state by authorizing counties, other public agencies and persons to cooperate in the collection, transportation, handling, storing, or disposing of solid waste; prescribing the rights, powers, privileges, and duties of such counties, public agencies, and persons; authorizing counties to acquire all kinds of property necessary or convenient to the exercise of the purposes of and the powers granted by this Act; authorizing counties to acquire by various means, operate, or maintain solid waste disposal systems; conferring the power of eminent domain upon counties; authorizing contracts between counties, public agencies, or other persons; setting forth the powers of such contracting parties in the making of such contracts; prescribing the sources from which payments under such contracts may be made, and authorizing such payments to be made from various revenues or from taxes, or both; providing that levy and pledge of ad valorem tax to make such contract payments must be authorized by election; requiring imposition by public agencies of rates sufficient to produce adequate revenues as required by such contracts; authorizing the issuance and refunding of bonds by counties and prescribing their terms, security, and related matters; requiring imposition by counties of rates sufficient to produce adequate revenues; authorizing investment of bond proceeds and the use thereof for interest payments, administrative expenses, and reserve funds; authorizing counties to offer solid waste disposal service and to require use thereof, to charge fees for such service and to suspend service from other utilities to persons

delinquent in payment; providing for approval of bonds and contracts by the Attorney General of Texas, and for their incontestability thereafter; providing for validation by suit in the district court and providing that judgment shall be res adjudicata as to the validity of bonds and contracts; providing that bonds issued under this Act shall be legal investments for various entities and be eligible to secure deposits of public funds; providing that counties shall bear the sole expense of the relocation of certain facilities; providing that this Act is cumulative of other statutes governing Texas Water Quality Board, Texas Air Control Board, and Texas State Department of Health relating to issuance of bonds, solid waste disposal service, or facilities for such purposes; providing for liberal construction of this Act; repealing Chapter 854, Acts of the 61st Legislature (compiled as Article 2351g, Vernon's Texas Civil Statutes); providing that this Act shall constitute full authority according to its terms and provisions and that no other general or special law or city charter provision shall be construed as affecting the provisions of this Act except as herein expressly provided; validating acts and proceedings of governing bodies of counties or other public agencies accomplished under said Chapter 854 and validating all bonds issued and all contracts consummated thereunder except matters now involved in litigation which ultimately terminates unfavorably as to the validity thereof; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency."

H. B. No. 202, A bill to be entitled "An Act prohibiting the barter, sale, offer for barter or sale, or purchase of certain fish from the waters of Lake Arrowhead; providing a penalty; and declaring an emergency."

H. B. No. 249, A bill to be entitled "An Act relating to the regulation of practices used in the collection of debts; providing penalties; and declaring an emergency."

H. B. No. 470, A bill to be entitled "An Act relating to a program to assist families in the adoption of hard-to-place children; providing defi-

nitions; providing for financial assistance; and declaring an emergency."

H. B. No. 575, A bill to be entitled "An Act relating to increasing the filing fee for suits for divorce or dissolution of marriage in certain counties; and declaring an emergency."

H. B. No. 603, A bill to be entitled "An Act amending Sections 1 and 2, Chapter 571, Acts of the 60th Legislature, Regular Session, 1967 (Article 1109e-1, Vernon's Texas Civil Statutes), relating to city contracts with conservation and reclamation districts for water supply, so as to make said Chapter applicable to all cities, including Home Rule Cities, having a population of 500,000 or more according to the next preceding Federal Census, enacting other provisions relating to the subject, providing for severability, and declaring an emergency."

H. B. No. 733, A bill to be entitled "An Act amending Chapter 72, Acts of the 57th Legislature, Regular Session, 1961 (Article 4590f, Vernon's Texas Civil Statutes), relating to inclusion of kinds of radiation not presently covered by the Radiation Control Act of 1961, by generally substituting the term 'radiation' for the frequent phrase 'ionizing radiation,' used in the 1961 Act, and by defining 'radiation'; by changing or adding certain other definitions; by amending certain sections to reflect these changes of definitions; by amending certain sections to change registration and exposure reporting requirements; extending authorization of the Governor of the State of Texas to enter into agreements with the federal government to transfer certain regulatory powers to the State of Texas concerning any radiation; and declaring an emergency."

H. B. No. 853, A bill to be entitled "An Act amending Section 7-A, House Bill No. 441, Chapter 305, Page 757, General and Special Laws of the State of Texas, Acts of the Fifty-third Legislature, Regular Session, 1953 (Section 7-A of Article 695c, Vernon's Texas Civil Statutes); providing for the establishment of a Food Stamp Program; providing for assessments for the handling of the Food Stamp Program and placing a limitation on the amount of assessments; providing for an increase in assess-

ments for the handling of the commodities and placing a limitation on the amount of the assessments; fixing an effective date; providing a repealing clause, a savings clause; and declaring an emergency."

H. B. No. 910, A bill to be entitled "An Act to amend Section 7, H. B. No. 263, Chapter 877, Acts of the 61st Legislature, Regular Session, 1969 (Article 5890e, Section 7, Vernon's Texas Civil Statutes); to amend Section 8, H. B. No. 263, Chapter 877, Acts of 61st Legislature, Regular Session, 1969 (Article 5890e, Section 8, Vernon's Texas Civil Statutes); to amend Section 10, H. B. No. 263, Chapter 877, Acts of the 61st Legislature, Regular Session, 1969 (Article 5890e, Section 10, Vernon's Texas Civil Statutes); thereby, in said Section 7, to further enumerate, without limitation, notice requirements or ordinances; adding in said Section 7, provisions to provide for such cities and towns to effect establishment, after commencement of such disaster or calamity, temporary, emergency housing, for persons rendered homeless or made occupants of disaster, calamity-caused unfit habitations, or for purposes of governmental operations, upon any and all lands to which such cities and towns have right of possession or custody, irrespective of local zoning ordinances, rules and regulations, or deed restrictions, then effective, for not longer than three hundred sixty consecutive days; adding provisions, in said Section 7, upon finding of substantial disruption of the local, free, competitive market in the purchase and sale of specified classes of goods and services, empowering such cities and towns to promulgate regulations to prevent exorbitant retail prices therein, for a period of fifteen days or less, after such disaster or calamity, and providing methods or charge determinations as to such goods and services, in whole or in part, consistent with the National Housing Act, as amended, concerns federally insured housing units; requiring such city or town setting price maximums to establish prompt appeals procedure for any person dissatisfied with such city's or town's governing body's maximum determinations, including public hearing, receipt of evidence, representation by counsel, such appeal being prerequisite to resort to a court of law for relief; granting jurisdiction

to the District Court and applying the substantial evidence rule; placing the burden of proof or erroneous prevalent price determination upon the contestant; providing immunity for such city or town, its governing body, officers, employees, or agents from pecuniary liability for any losses or damages attributable to such price regulations; permitting, after such initial declaration, higher retail price maximums; permitting ordinance or order moratorium of competitive bidding requirements of Article 2368a, V. A. T. C. S., and applicable local law for a period of not more than ninety (90) days after calamity occurrence-date; amending Article 5890e, Section 8 to increase, prior to automatic termination, the longest period for declaration of state emergency by such cities and towns for Article 5890e, Section 7 purposes, or the effective period of regulations made thereunder, from 72 hours to seven (7) days after date of such local governing body declaration; amending Article 5890e, Section 10, 'Violations' by adding the remedy of injunction to the enforcement powers hereunder of the Governor and local governing bodies; providing a validation clause; keeping all other provisions of Article 5890e in full force and effect; repealing all laws in conflict herewith to the extent of such conflict; providing for severance of any portion of this act that is held invalid; and declaring an emergency."

H. B. No. 1009, A bill to be entitled "An Act to provide occupational and technical training and support courses on branch campuses and centers or extensions of Central Texas College in Bastrop, Blanco, Caldwell, Hays, Travis and Williamson counties; and declaring an emergency."

H. B. No. 1287, A bill to be entitled "An Act relating to requiring certain documents required to be made under the Texas Insurance Code, as amended, to be verified by written declaration under penalty of perjury; etc.; and declaring an emergency."

H. B. No. 1557, A bill to be entitled "An Act amending Section (b), Article 10.01, Chapter 10, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-10.01, Vernon's Texas Civil Statutes), relating to defining certain deceptive practices in the conduct of any trade or com-

merce, by adding Subsection (18) which makes a pyramid style or multi-level investment plan a deceptive practice; and declaring an emergency."

H. B. No. 1565, A bill to be entitled "An Act establishing in the State Treasury the Parks and Wildlife Operating Fund; authorizing expenditures for purposes specified by the General Appropriations Act; providing no expenditure from such fund except as authorized by law and providing nothing shall jeopardize Federal funds; repealing laws or parts of laws in conflict; and declaring an emergency."

H. B. No. 1567, A bill to be entitled "An Act amending Sections 1 and 4 of House Bill 276, Chapter 417, Acts, 60th Legislature, Regular Session, 1967 (Article 4413(32a), V. A. C. S.), concerning the provision of a focal point for State Planning and Coordination; continuing the Governor as the Chief Planning Officer of the State; creating a Division of Planning and Coordination in the Executive Office of the Governor designed to serve as the State's Clearinghouse for applications for federal assistance, provide assistance to Regional Planning Commissions, delineate regional boundaries for planning, provide for plans and implementation procedures for State development, provide standards for effective planning, programming, and coordination, receive and expend federal funds, and perform other duties and responsibilities assigned by this Act; providing for the appointment and term of a Director of Planning and Coordination; providing for coordination of planning; providing a severability clause; and declaring an emergency."

H. B. No. 1585, A bill to be entitled "An Act amending Section (b), Article 10.01, Chapter 10, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-10.01, Vernon's Texas Civil Statutes), relating to defining certain deceptive practices in the conduct of any trade or commerce, by adding Subsection (16) which makes a chain referral scheme a deceptive practice; and declaring an emergency."

H. B. No. 1680, A bill to be entitled "An Act relating to the salary of the Criminal District Attorney of Upshur County, his assistant, and his

secretary; amending Sections 4 and 5, Chapter 508, Acts of the 58th Legislature, 1963 (Article 326k-51, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1708, A bill to be entitled "An Act relating to allowances for traveling expenses and automobile depreciation of members of the commissioners court in connection with the use of privately owned automobiles for traveling on official business within the county; amending Acts 1956, 56th Legislature, Regular Session, Page 502, Chapter 221, by establishing a new maximum for such allowance in all counties having a population in excess of 124,000; repealing all laws or parts of laws in conflict herewith; and declaring an emergency."

H. B. No. 1716, A bill to be entitled "An Act amending the Motor Vehicle Certificate of Title Act, Acts of the 46th Legislature, 1939, page 602 (Article 1436-1, VTPS), as amended, by adding a new Section 61A requiring certain transporters of motor vehicles to make a check of the title to such vehicles and establish the right of possession in person tendering the vehicles for transportation; establishing a penalty for failure to comply; and declaring an emergency."

H. B. No. 1755, A bill to be entitled "An Act to amend Section 2, Chapter 82, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 5344c, Vernon's Texas Civil Statutes), so as to provide for amendment to extend the term of existing oil, gas and mineral leases covering certain State lands; providing for severability; and declaring an emergency."

H. B. No. 1770, A bill to be entitled "An Act to amend Chapter 655, Acts of the 59th Legislature, Regular Session, 1965, by adding a new section to validate contracts executed for the disposal of salt water and to provide bonds issued by such water power control districts shall be legal and authorized investments in certain instances, and that such bonds shall be eligible and lawful securities for certain deposits; and declaring an emergency."

H. B. No. 1810, A bill to be entitled "An Act authorizing the Texas Parks and Wildlife Department to acquire

certain Spanish Missions in Milam County; authorizing acquisition by available or appropriated funds or by gift; and declaring an emergency."

H. C. R. No. 149, Inviting President Richard M. Nixon to address a joint session of the 62nd Legislature.

H. C. R. No. 138, Resolving that the Legislature finds that the proper function of all levels of government in this State is to aid private economy and prevent governmental competition in certain areas.

H. J. R. No. 41, Proposing an amendment to Article XVI, Section 61 of the Texas Constitution, to require the commissioners court in all counties of the state to compensate all justices of the peace on a salary basis beginning January 1, 1973.

H. C. R. No. 164, Requesting that Senate Bill No. 727 be returned to the House for further deliberation.

New Conference Committee on S. B. No. 442 appointed by the House. Conferees: Atwell, Hull, Moncrief, Boyle, Hawn.

H. C. R. No. 163, Inviting the Honorable Hubert H. Humphrey, United States Senator from Minnesota to address a Joint Session of the 62nd Legislature.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 835. House conferees: Cavness, Chairman; Clayton, Foreman, Golman, Solomon.

H. C. R. No. 167, Requesting a duplicate copy of Senate Bill No. 778.

The House refused to concur in Senate amendments to House Bill 203 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. Conferees: Nugent of Kerr, Pickens, Jones of Taylor, Blanton, Cobb.

The House refused to adopt Conference Committee Report on S. B. 537 by a non-record vote and requested appointment of new House conferees. Conferees: Cobb, Jones of Taylor, Hale, Traeger, Cavness.

S. B. No. 149, A bill to be entitled "An Act relating to the protection of

children from abuse and neglect, amending Chapter 117, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 695c-02, Vernon's Texas Civil Statutes); and declaring an emergency."

The House has concurred in Senate amendments to House Bill No. 1643 by non-record vote.

The House has concurred in Senate amendments to House Bill No. 1203 by non-record vote.

The House has concurred in Senate amendments to House Bill No. 592 by non-record vote.

The House has concurred in Senate amendments to House Bill No. 440 by vote of 147 Ayes, 0 Noes.

The House has concurred in Senate amendments to House Bill No. 1622 by non-record vote.

The House has concurred in Senate amendments to House Bill No. 1323 by vote of 139 Ayes, 2 Noes.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Message From the Governor

The following Message received from the Governor was read and filed with the Secretary of Senate:

May 24, 1971

To The Senate of The State of Texas
From Governor Preston Smith:

I herewith submit the attached Special Message for your consideration as an emergency measure.

Respectfully submitted,
Preston Smith,
Governor of Texas

May 24, 1971

In my budget recommendations which were presented in the initial days of this Session, I recommended sufficient funds for the Texas Aeronautics Commission's Airport Aid Program. This program aids cities in matching, on a 50-50 basis, \$3 million of federal funds available annually to local airports (not served by air carriers) under the Federal Airways Act of 1970. Since the biennial total of my recommendations exceeded the revenue producing capacity of the un-

refunded tax on aviation fuel, I recommended that the refund provision be removed from V. A. C. S. Art. 9.13. This action would provide an additional \$1.4 million in revenue for the biennium.

In accordance with my recommendations, when H. B. 730 passed the House on March 3, it amended Art. 9.13 of the V.A.C.S. to provide the additional revenue. However, the final version of H. B. No. 730 which passed both the House and Senate did not change the refund provision.

Since the omission of this amendment could cause the State and its cities to lose \$3 million annually in Federal Aviation Grants to local airports not served by an air carrier, I strongly urge that this amendment be considered now on an emergency basis. Most cities would be hard pressed to find this revenue, thus losing an opportunity to aid their future economic development.

If Texas is to obtain a fair return on the taxes its citizens are paying into the Federal Aviation Trust Fund, the State must aid the cities in raising the revenue to match these grants. Moreover, since some of these cities may exceed the 50,000 population ceiling and \$27,500 grant amount ceiling currently imposed on the Commission, I also urge that these restrictions be removed.

There are other significant reasons why these two legislative actions are imperative.

1. Last week the Federal Aviation Administration approved an Airport Systems Planning grant of \$629,961 (2/3's federal, 1/3 state matching ratio) to enable Texas to continue to formulate a statewide Air Transportation Plan. The development and approval of such a plan is necessary for Texas to receive approximately \$175 million in airport construction grants during the next ten years.

The Division of Planning Coordination in my office will serve as coordinator for this comprehensive study of the need and optimum course of future airport development in Texas. The plan will be compiled through the joint efforts of the Aeronautics Commission, the Texas Transportation Institute and regional councils of government. This study will measure current demand for commercial passenger, air cargo, and general aviation;

forecast future demand based on population and economic growth; and thus pinpoint future needs for airport construction and development. Since the formulation of this master plan will be a future requirement to qualify state and city grant requests from the Federal Aviation Trust Fund, Texas must insure that it has sufficient revenue to provide the state share of the match to continue this study. If all of the matching funds must come from present revenue, the State airport aid program will be seriously hindered.

2. Part of this additional revenue is also needed to aid airports which run the risk of losing scheduled air service by C.A.B. certified carriers as a result of airport certification responsibilities of the F.A.A. under the Airport/Airways Act of 1970.

3. Some additional funds are needed by the Commission to assist the future economic development of the state by providing financial assistance when the development of an adequate airport facility is a critical factor in an industry's decision to locate in Texas.

If you feel that the removal of the refund provision is not advisable, I recommend that the necessary funds be financed out of General Revenue funds. However, the removal of the refund provision is the preferable alternative since it would also provide \$600,000 more revenue to the Available School Fund for the biennium (thus relieving the General Revenue Fund).

The future aviation development and economic growth of the State makes it urgent that this additional funding be provided the Aeronautics Commission.

Reports of Standing Committees

By unanimous consent, Senator Hall submitted the following reports for the Committee on County, District and Urban Affairs:

H. B. No. 1861 (Floor report).

S. B. No. 1032 (Floor report).

H. B. No. 1771 (Floor report).

By unanimous consent, Senator Bates submitted the following report for the Committee on Transportation:

H. B. No. 1510 (Floor report).

By unanimous consent, Senator Creighton submitted the following report for the Committee on Water and Conservation:

H. B. No. 1734 (Floor report).

By unanimous consent Senator Connally submitted the following report for the Committee on Parks and Wildlife:

H. B. No. 883 (Floor report).

Bills Signed

The President Pro Tempore announced the signing by the President in the presence of the Senate after the caption had been read, the following enrolled bills:

H. B. No. 246.

H. B. No. 418.

H. B. No. 579.

H. B. No. 606.

H. B. No. 607.

H. B. No. 608.

H. B. No. 637.

H. B. No. 826.

H. B. No. 923.

H. B. No. 1041.

H. B. No. 1198.

H. B. No. 1384.

H. B. No. 1387.

House Bill 1062 Ordered Not Printed

On motion of Senator Ratliff and by unanimous consent, H. B. No. 1062 was ordered not printed.

House Bill 1861 Ordered Not Printed

On motion of Senator Ratliff and by unanimous consent, H. B. No. 1861 was ordered not printed.

House Bill 1759 Ordered Not Printed

On motion of Senator Connally and by unanimous consent, H. B. No. 1759 was ordered not printed.

House Bill 687 Ordered Not Printed

On motion of Senator Connally and by unanimous consent, H. B. No. 687 was ordered not printed.

House Bill 1734 Ordered Not Printed

On motion of Senator Bates and by unanimous consent, H. B. No. 1734 was ordered not printed.

Senate Bill 1032 Ordered Not Printed

On motion of Senator Hall and by unanimous consent, S. B. No. 1032 was ordered not printed.

House Concurrent Resolution 138 on Second Reading

The President Pro Tempore laid before the Senate the following resolution:

H. C. R. No. 138, Resolving that the Legislature finds that the proper function of all levels of government in this State is to aid private economy and prevent governmental competition in certain areas.

The resolution was read.

Question—Shall H. C. R. No. 138 be considered immediately?

Senate Bill 236 With House Amendment

Senator Patman called S. B. No. 236 from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the following House amendment before the Senate:

Amendment No. 1

Amend S. B. No. 236 as follows:

(1) Strike Section 1 and substitute the following:

"This Act applies to incorporated cities, town, or villages if the incorporated city, town, or village does not have zoning ordinances and provided the city, town, or village passes an ordinance that requires uniform application and enforcement of this Statute to all property and citizens."

The House amendment was read.

Senator Patman moved that the Senate concur in the House amendment.

The motion prevailed by the following vote:

Yeas—31

| | |
|-----------|--------|
| Aikin | Bates |
| Beckworth | Bernal |

| | |
|------------|----------|
| Blanchard | Kothmann |
| Bridges | Mauzy |
| Brooks | McKool |
| Christie | Moore |
| Connally | Patman |
| Creighton | Ratliff |
| Grover | Schwartz |
| Hall | Sherman |
| Harrington | Snelson |
| Harris | Wallace |
| Herring | Watson |
| Hightower | Wilson |
| Jordan | Word |
| Kennard | |

Senate Bill 39 With House Amendments

Senator Harrington called S. B. No. 39 from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the following House amendment before the Senate:

Committee Amendment No. 1

Amend Senate Bill 39 by striking all below the enacting clause and substituting the following:

Section 1. It is lawful to take for personal use not more than 100 pounds of shrimp (in their natural state with heads attached) per seine per day during the open season in the outside waters of this State as defined in the Texas Shrimp Conservation Act, Article 4075-b, R. C. S.; provided that it shall be unlawful to use any such seine within one mile of any natural or man-made pass leading from the inside waters to the outside waters of this State. Any seine used for the purpose of taking shrimp for personal use shall not exceed 400 feet in length, the mesh of which shall not be less than one and one-half inch square mesh except for the bag and 50 feet on each side of the bag, the mesh of which shall not be larger than one inch square mesh. The seine must be manually operated and all shrimp and other marine life not kept by the seining party shall be returned to the water. Provisions of Section 4, Article 4075-b, R. C. S., shall apply to all such shrimp taken. It is unlawful to sell any shrimp taken as permitted in this Act.

Sec. 2. Unless otherwise provided by law, every person in a seining party who exceeds any privilege granted by this Act shall be deemed

guilty of a violation of the Texas Shrimp Conservation Act, Article 4075-b, R. C. S., and shall be fined in accordance with the Act.

Sec. 3. Emergency Clause.

The House amendment was read.

Senator Harrington moved that the Senate concur in the House amendment.

The motion prevailed by the following vote:

Yeas—31

| | |
|------------|----------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Moore |
| Brooks | Patman |
| Christie | Ratliff |
| Connally | Schwartz |
| Creighton | Sherman |
| Grover | Snelson |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |
| Hightower | |

Report of Standing Committee

By unanimous consent, Senator Hall submitted the following report for the Committee on County, District and Urban Affairs:

S. B. No. 1011.

Senate Bill 1011 Ordered Not Printed

On motion of Senator Hall and by unanimous consent, S. B. No. 1011 was ordered not printed.

Senate Resolution 1339

By unanimous consent, Senator Wilson offered the following resolution:

S. R. No. 1339, Providing for the creation of a Special Interim Committee on the existing total Medicaid Program.

The resolution was read and was referred to the Committee on Administration.

Senate Concurrent Resolution 113

By unanimous consent, Senator Snelson offered the following resolution:

S. C. R. No. 113, Providing for the creation of an Interim Committee on Texas Energy Fuels.

The resolution was read and was referred to the Committee on Administration.

Senate Resolution 1347

By unanimous consent, Senator Hightower offered the following resolution:

S. R. No. 1347, Relating to manner in which Texas Legislative Council drafts bills and joint resolutions.

The resolution was read and was referred to the Committee on Administration.

Reports of Standing Committee

By unanimous consent, Senator Wilson submitted the following report for the Committee on Constitutional Amendments:

C. S. H. J. R. No. 2 (Read first time) (Floor report).

By unanimous consent, Senator Creighton submitted the following report for the Committee on Water and Conservation:

H. B. No. 458.

By unanimous consent, Senator Connally submitted the following report for the Committee on Parks and Wildlife:

H. B. No. 1566.

By unanimous consent, Senator Herring submitted the following report for the Committee on Jurisprudence:

H. B. No. 339 (Floor report).

By unanimous consent, Senator Patman submitted the following report for the Committee on Agriculture and Livestock.

S. B. No. 1031 (Floor report).

Conference Committee Report on Senate Bill 396

Senator Watson submitted the following Conference Committee Report on S. B. No. 396:

Austin, Texas,
May 19, 1971.

Hon. Ben Barnes, President of the Senate.

Hon. G. F. (Gus) Mutscher, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S. B. No. 396, have met and had same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WATSON
WORD
BECKWORTH
MOORE
BATES

On the part of the Senate.

SALTER
CARL PARKER
ROSSON
BRAECKLEIN
SHANNON

On the part of the House.

S. B. No. 396:

A BILL TO BE ENTITLED

An Act relating to the jurisdiction of the County Court at Law of McLennan County and the County Court of McLennan County, the transfer of causes and exchange of benches between the two courts and compensation for services on the Juvenile Board of McLennan County; amending Sections 2 and 3, Chapter 248, and adding Section 3a to Chapter 248, Acts of the 52nd Legislature, Regular Session, 1951 (Article 1970-298b, Vernon's Texas Civil Statutes); amending Chapter 363, Acts of the 59th Legislature, Regular Session, 1965 (Article 6819a-40, Vernon's Texas Civil Statutes); and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Sections 2 and 3, Chapter 248, Acts of the 52nd Legislature, Regular Session, 1951 (Article 1970-298b, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 2. (a) The County Court at Law of McLennan County shall have jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the general laws and Constitution of the State,

the County Court of the county would have jurisdiction.

"(b) The jurisdiction of the County Court at Law of McLennan County and the Judge thereof shall extend to all matters of eminent domain, but this provision shall not affect the jurisdiction of the Commissioners Court, or of the County Judge of McLennan County as the presiding officer of the Commissioners Court as to roads, bridges, and public highways, and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the Judge thereof.

"(c) Except as provided in Subsection (b) of this section, the County Court at Law of McLennan County and the Judge thereof shall have concurrent jurisdiction with the County Court of McLennan County and the Judge thereof in all matters and causes over which by the general laws and Constitution of the State the County Court would have jurisdiction.

"Section 3. The County Court of McLennan County shall have the jurisdiction given County Courts under the Constitution and general laws of this State. The County Court, and the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of the court, and also to punish contempts under such provisions as are or may be provided by law governing County Courts throughout the State. The County Judge of McLennan County shall be the Judge of the County Court of McLennan County. All ex-officio duties of the County Judge shall be exercised by the Judge of the County Court of McLennan County, except insofar as the same shall by this Act be committed to the Judge of the County Court at Law of McLennan County."

Sec. 2. Chapter 248, Acts of the 52nd Legislature, Regular Session, 1951, as amended (Article 1970-298b, Vernon's Texas Civil Statutes), is amended by adding Section 3a to read as follows:

"Section 3a. (a) The Judge of either the County Court at Law of McLennan County or the County Court of McLennan County may, in his discretion, either in term time or in vacation, on motion of any party or

on agreement of the parties, or on his own motion, transfer any cause on his docket, to the docket of the other Court.

"(b) The Judges of the Courts may, in their discretion, exchange benches from time to time. Whenever a Judge of one of the Courts is disqualified, he shall transfer the case from his Court to the other Court.

"(c) Either Judge may, in his own courtroom, try and determine any case or proceeding pending in either Court, without having the case transferred, or may sit in the other Court, without having the case transferred, or may sit in the other Court and there hear and determine any case there pending. Each judgment and order shall be entered in the minutes of the Court in which the case is pending.

"(d) In case of absence, sickness, or disqualification of either Judge, the other Judge may hold Court for him. Either of the Judges may hear any part of any case or proceeding pending in either of the Courts and determine the same or may hear and determine any question in any case, and either Judge may complete the hearing and render judgment in the case.

"(e) In cases transferred to either of the Courts by order of the Judge of the other Court, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the Court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligation of such bonds or recognizances at the terms of the Court to which the cases are transferred to as are fixed by law.

"(f) All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the Court to which the transfer is made."

Sec. 3. Chapter 363, Acts of the 59th Legislature, Regular Session, 1965 (Article 6819a-40, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. (a) The Commissioners Court of McLennan County shall supplement the salary of the District

Court Judges whose jurisdiction lies in McLennan County, the Judge of the County Court at Law of McLennan County, and the salary of the County Judge of McLennan County in an amount not less than \$1,500 nor more than \$5,000 a year for services rendered to the Juvenile Board of McLennan County.

"(b) The Commissioners Court may also supplement District Judges' salary by not more than \$5,000 a year for administrative services rendered to the County.

"Section 2. The supplemental salary described in Section 1 of this Act is in addition to all other salary now paid or authorized to be paid by the State to the Judges of the District Courts, of the County Court at Law and of the County Court of McLennan County."

Sec. 4. The importance of this legislation and the crowded condition of the calendars in both Houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended; and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and adopted by the following vote:

Yeas—31

| | |
|------------|----------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Moore |
| Brooks | Patman |
| Christie | Ratliff |
| Connally | Schwartz |
| Creighton | Sherman |
| Grover | Snelson |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |
| Hightower | |

(President in Chair.)

Senate Bill 321 on Third Reading

Senator Kennard asked unanimous consent to suspend the regular order

of business and take up S. B. No. 321 for consideration at this time.

There was objection.

Senator Kennard then moved to suspend the regular order of business and take up S. B. No. 321 for consideration at this time.

The motion prevailed by the following vote:

Yeas—25

| | |
|------------|----------|
| Aikin | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Patman |
| Brooks | Schwartz |
| Christie | Sherman |
| Hall | Snelson |
| Harrington | Wallace |
| Harris | Watson |
| Herring | Wilson |
| Hightower | Word |
| Jordan | |

Nays—5

| | |
|-----------|---------|
| Bates | Grover |
| Connally | Ratliff |
| Creighton | |

Absent

Moore

The President laid before the Senate on its third reading and final passage:

S. B. No. 321, A bill to be entitled "An Act to establish a State policy for the environment, to require State agencies and subdivisions to comply herewith, to provide for the establishment of an Office of Environmental Quality, and for other purposes; etc.; and declaring an emergency."

The bill was read third time and was passed.

Record of Votes

Senators Connally, Creighton, Grover, Hightower and Ratliff asked to be recorded as voting "Nay" on the final passage of the bill.

Senate Bill 1018 on Third Reading

Senator Kennard moved to suspend the regular order of business and take up S. B. No. 1018 for consideration at this time.

The motion prevailed by the following vote:

Yeas—24

| | |
|------------|----------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Patman |
| Brooks | Schwartz |
| Christie | Sherman |
| Harrington | Snelson |
| Harris | Wallace |
| Herring | Watson |
| Hightower | Wilson |

Nays—7

| | |
|-----------|---------|
| Connally | Moore |
| Creighton | Ratliff |
| Grover | Word |
| Hall | |

The President laid before the Senate on its third reading and final passage:

S. B. No. 1018, A bill to be entitled "An Act providing for an inventory of all land uses within the State of Texas; authorizing and directing the Land Commissioner to contract with such personnel or firms as may be necessary to take such inventory, and declaring an emergency."

The bill was read third time and was passed.

Record of Votes

Senators Grover and Connally asked to be recorded as voting "Nay" on the final passage of the bill.

Committee Substitute

Senate Bill 29 on Third Reading

Senator Schwartz moved to suspend the regular order of business and take up C. S. S. B. No. 29 for consideration at this time.

The motion prevailed by the following vote:

Yeas—23

| | |
|-----------|------------|
| Aikin | Hall |
| Beckworth | Harrington |
| Bernal | Harris |
| Blanchard | Hightower |
| Bridges | Jordan |
| Brooks | Kennard |
| Christie | Kothmann |
| Grover | Mauzy |

| | |
|----------|---------|
| McKool | Wallace |
| Patman | Watson |
| Schwartz | Wilson |
| Snelson | |

Nays—7

| | |
|-----------|---------|
| Bates | Ratliff |
| Connally | Sherman |
| Creighton | Word |
| Herring | |

Absent

Moore

The President laid before the Senate on its third reading and final passage:

C. S. S. B. No. 29, A bill to be entitled "An Act relating to air pollution control; amending the Texas Clean Air Act, Chapter 727, Acts of the 60th Legislature, 1967, as amended (Article 4477-5, Vernon's Texas Civil Statutes), as follows: amending Sections 1.02, 1.03, 1.05, 2.02, 2.05, 2.08, 2.09, 2.10, 2.14, 2.16, 3.01, 3.02, 3.03, 3.05, 3.06, 3.07, 3.08, 3.09, 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, 3.16, 3.17, 3.18, 3.19, 3.20, 3.21, 3.22, 3.23, 3.24, 3.25, 3.26, 4.01, 4.02, 4.03, 4.05, 5.01, 5.02, 5.05, and 6.01 and adding new Sections 3.27, 3.28 and 5.06 (Article 4477-5, Vernon's Texas Civil Statutes); providing for severability; and declaring an emergency."

The bill was read third time and was passed.

Record of Votes

Senators Herring, Creighton, Sherman and Ratliff asked to be recorded as voting "Nay" on the final passage of the bill.

Conference Committee on
House Bill 333

Senator Christie called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H. B. No. 333 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on H. B. No. 333 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Christie, Mauzy, McKool, Harrington and Brooks.

Bills and Resolutions Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

H. B. No. 279.

H. B. No. 661.

H. B. No. 663.

H. B. No. 753.

H. B. No. 775.

H. B. No. 821.

H. B. No. 823.

H. B. No. 849.

H. B. No. 870.

H. B. No. 885.

H. B. No. 989.

H. B. No. 1068.

H. B. No. 1146.

H. B. No. 1147.

H. B. No. 1148.

H. B. No. 1149.

H. B. No. 1414.

H. B. No. 1548.

H. B. No. 1724.

H. C. R. No. 47.

H. C. R. No. 125.

H. C. R. No. 152

Senate Bill 261 with House Amendment

Senator Mauzy called S. B. No. 261 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the following House amendment before the Senate:

Amendment No. 1

Amend S. B. 261 by striking all above the enacting clause and substituting in lieu thereof the following:

A BILL TO BE ENTITLED

An Act amending employers' liability and workmen's compensation laws of the state; amending Section 8a, of Article 8306, Revised Civil Statutes of Texas, 1925, as amended, to add to the list of beneficiaries, "dependent grandchildren"; and to provide that in the case of death where guardian has not been appointed for a beneficiary who is disqualified for taking because of lunacy, infancy or other disqualifying cause, payments may be made directly to the person having custody of the person of such beneficiary, who shall be entitled to receive and receipt for such payments unless or until the association is notified that a guardian has been appointed in which event payments shall thereafter be made to such guardian; providing that this Act shall not affect any rights which have vested or accrued prior to the effective date hereof, and remaining prior laws in effect, insofar as injuries sustained prior to the effective date hereof; providing for a savings clause; repealing all laws in conflict; and declaring an emergency.

The House amendment was read.

Senator Mauzy moved that the Senate concur in the House amendment.

The motion prevailed.

Senate Bill 281 with House Amendments

Senator Mauzy called S. B. No. 281 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the following House amendments before the Senate:

Committee Amendment No. 1

Amend Senate Bill No. 281 by striking all below the enacting clause and substituting therefor the following:

Section 1. Section 12, Chapter 292, Acts of the 61st Legislature, Regular

Session, 1969 (Article 6252-19, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 12 (a) The judgment or settlement in an action or claim under this Act shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of a unit of government whose act or omission gave rise to the claim.

"(b) The State or a political subdivision may not require any employee to purchase liability insurance as a condition of his employment where the State or political subdivision is insured by a policy of liability insurance.

"(c) The remedy against units of government provided by this Act for personal injury or death, resulting from the operation by any employee of a unit of government of any motor vehicle or motor driven equipment while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim to the extent that the unit of government would be liable under the Act.

"(d) In the event that a unit of government is determined to be not liable by a court of competent jurisdiction for any reason other than a fact determination that there existed no negligent act or omission which would give rise to a cause of action, then the claimant shall have a cause of action against the employee or his estate in the same manner and to the same extent that such cause of action existed prior to the effective date of the said Texas Tort Claims Act. For purposes of this section any applicable statutes of limitations are hereby tolled.

"(e) To the extent of any conflict between the provisions of this section and the provisions of Section 6, the provisions of this section shall prevail."

Section 2. Section 9, Chapter 292, Acts of the 61st Legislature, Regular Session, 1969 (Article 6252-19, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 9. The Attorney General of Texas shall defend all actions brought under the provisions of this

Act against any unit of government whose authority and jurisdiction is coextensive with the geographical limits of the State of Texas. All units of government represented by the Attorney General shall make reports of all incidents which could possibly give rise to claims under this Act, to the Attorney General, in the manner and on forms prescribed by the said Attorney General. All units of government whose area of jurisdiction is less than the entire State of Texas shall employ their own counsel in accordance with the organic act under which such unit of government is operating; provided, however, that all units of government are hereby expressly authorized to purchase policies of insurance providing protection for such units of government, their officers, agents and employees against claims brought under the provisions of this Act, and when they have acquired such insurance, they are further authorized to relinquish to the company providing such insurance coverage the right to investigate, defend, compromise and settle any such claim. In the case of suits defended by the Attorney General, he may be fully assisted by counsel provided by insurance carrier. Neither the existence or amount of insurance shall ever be admissible in evidence in the trial of any case hereunder, nor shall the same be subject to discovery."

Section 3. The crowded condition of the calendars in both houses plus the fact that the present law has caused injustices, increases the importance of this amendment and creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the Rule is hereby suspended; and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 1

Amend Committee Amendment to Senate Bill 281 by striking all of Section 1 and substituting the following in lieu thereof:

Section 1. Section 12, Chapter 292, Acts of the 61st Legislature, Regular Session, 1969 (Article 6252-19, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 12. (a) The judgment or settlement in an action or claim un-

der this Act shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of a unit of government whose act or omission gave rise to the claim.

"(b) The State or a political subdivision may not require any employee to purchase liability insurance as a condition of his employment where the State or political subdivision is insured by a policy of liability insurance.

"(c) The remedy against units of government provided by this Act for personal injury or death, resulting from the operation by any employee of a unit of government of any motor vehicle or motor driven equipment while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim to the extent that the unit of government would be liable under the Act.

"(d) In the event that a unit of government is determined to be not liable by a court of competent jurisdiction for any reason other than a fact determination that there existed no negligent act or omission which would give rise to a cause of action, then the claimant shall have a cause of action against the employee or his estate in the same manner and to the same extent that such cause of action existed prior to the effective date of the said Texas Tort Claims Act. For purposes of this section any applicable statutes of limitations are hereby tolled.

"(e) To the extent of any conflict between the provisions of this section and the provisions of Section 6, the provisions of this section shall prevail.

"(f) Nothing contained in subsections (c), (d) or (e) above shall apply to any incorporated city, town or village."

Amendment No. 2

Amend Senate Bill 281 by striking all above the enacting clause, and substituting the following:

A BILL TO BE ENTITLED

An Act amending Section 12, Chapter 292, Acts of the 61st Legisla-

ture, Regular Session, 1969 (Article 6252-19, Vernon's Texas Civil Statutes), making remedies against certain units of government, other than incorporated cities, towns and villages, exclusive in certain cases, providing exceptions and tolling statutes of limitations modifying Section 6 to the extent of any conflict; amending Section 9, Chapter 292, Acts of the 61st Legislature, Regular Session, 1969 (Article 6252-19, Vernon's Texas Civil Statutes), providing that all units of government represented by the Attorney General shall make reports to the Attorney General of all incidents which could possibly give rise to claims under the Texas Tort Claims Act; and declaring an emergency.

The House amendments were read.

Senator Mauzy moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S. B. No. 281 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Mauzy, Wallace, Brooks, McKool and Schwartz.

House Concurrent Resolution 160 on Second Reading

The President laid before the Senate the following resolution:

H. C. R. No. 160, Requesting a duplicate copy of S. B. No. 748.

The resolution was read.

On motion of Senator Wallace, and by unanimous consent the resolution was considered immediately and was adopted.

House Concurrent Resolution 163 on Second Reading

The President laid before the Senate the following resolution:

H. C. R. No. 163, Inviting the Honorable Hubert Humphrey to address a Joint Session.

The resolution was read.

On motion of Senator Herring and by unanimous consent, the resolution was considered immediately and was adopted.

**House Concurrent Resolution 150
on Second Reading**

The President laid before the Senate the following resolution:

H. C. R. No. 150, Inviting Vice-President Spiro Agnew to address a Joint Session of the Texas Legislature.

The resolution was read.

By unanimous consent, the resolution was considered immediately and was adopted.

Senate Bill 1031 Ordered Not Printed

On motion of Senator Watson and by unanimous consent, S. B. No. 1031 was ordered not printed.

Reports of Standing Committees

By unanimous consent, Senator Mauzy submitted the following report for the Committee on Education:

H. B. No. 1019 (Floor report).

By unanimous consent, Senator Creighton submitted the following report for the Committee on Water and Conservation:

H. B. No. 1640.

By unanimous consent, Senator Mauzy submitted the following report for the Committee on Education:

H. B. No. 521 (Floor report).

By unanimous consent, Senator Hall submitted the following report for the Committee on County, District and Urban Affairs:

H. B. No. 918 (Floor report).

By unanimous consent, Senator Blanchard submitted the following report for the Committee on Insurance:

H. B. No. 968.

Senate Bill 627 on Second Reading

The President laid before the Senate as unfinished business S. B. No. 627 on its second reading and passage to engrossment with an amendment by Senator Harris pending.

Question—Shall the amendment by Senator Harris be adopted?

Pending discussion by Senator Harris of the amendment, Senator Wilson moved to reconsider the vote by which the Previous Question was ordered on the adoption of the amendment and the passage of the bill to engrossment.

Question—Shall the vote by which the Previous Question was ordered be reconsidered?

The motion to reconsider was lost by the following vote:

Yeas—12

| | |
|-----------|---------|
| Bates | Herring |
| Beckworth | Kennard |
| Bridges | Moore |
| Creighton | Ratliff |
| Grover | Sherman |
| Harris | Wilson |

Nays—17

| | |
|------------|----------|
| Aikin | Mauzy |
| Bernal | McKool |
| Brooks | Patman |
| Connally | Schwartz |
| Hall | Snelson |
| Harrington | Wallace |
| Hightower | Watson |
| Jordan | Word |
| Kothmann | |

Absent

| | |
|-----------|----------|
| Blanchard | Christie |
|-----------|----------|

Question—Shall the amendment by Senator Harris to S. B. No. 627 be adopted?

**Senate Bill 627 Laid on Table
Subject to Call**

On motion of Senator Aikin and by unanimous consent, S. B. No. 627 was Laid on Table Subject to Call.

**Conference Committee on
Senate Bill 835**

Senator Herring submitted the following Conference Committee Report:

Austin, Texas,
May 24, 1971.

Hon. Ben Barnes, President of the Senate.

Hon. Gus Mutscher, Speaker of the House of Representatives.

Sirs: We, your Conference Committee appointed to adjust the differences between the Senate and the House of Representatives on S. B. No. 835, have met and had same under consideration and beg to report it back with the recommendation that it do pass in the form and text attached hereto.

HERRING
BLANCHARD
CREIGHTON
BROOKS
WATSON

On the part of the Senate.

CAVNESS
CLAYTON
FOREMAN
GOLMAN
SOLOMON

On the part of the House

S. B. No. 835:

**A BILL
TO BE ENTITLED**

An Act relating to the development of water quality management plans for the state and for designated areas of the state; relating to the regulation of the disposal of sewage which is disposed of by methods other than by means of disposal systems operated under a permit issued by the Texas Water Quality Board; relating to discharge of waste to disposal systems owned or operated by local governments and providing that Section 5.06 of the Texas Water Quality Act controls over other laws; relating to the delegation of functions and powers by the Texas Water Quality Board to local governments; relating to water pollution control and abatement programs by certain cities; amending Section 3.22, 3.26, 3.27, 3.28, and 5.05 of and adding Sections 5.06 and 5.07 to the Texas Water Quality Act, as amended (Article 7621d-1, Vernon's Texas Civil Statutes); providing for severability; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 3.22 of the Texas Water Quality Act, as amended (codified as Article 7621d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3.22. PRIVATE SEWAGE FACILITIES. (a) As used in this section, 'private sewage facilities' means septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks, and all other facilities, systems and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the board.

"(b) Whenever it appears that the use of private sewage facilities in an area is causing or may cause pollution, or is injuring or may injure the public health, the board may hold a public hearing in or near the area to determine whether an order should be entered controlling or prohibiting the installation or use of private sewage facilities in the area. Before entering such an order, the board shall consult with the State Commissioner of Health for recommendations concerning the impact of the use of private sewage facilities in the area on public health. If the board finds after the hearing that the use of private sewage facilities in an area is causing or may cause pollution, or is injuring or may injure the public health, the board may enter an order adopting such regulations on private sewage facilities as it may consider appropriate to abate or prevent pollution or injury to public health.

"(c) The regulations so ordered may, without limitation, do one or more of the following:

"(1) limit the number and kind of private sewage facilities which may be used in the area;

"(2) prohibit the installation and use of additional private sewage facilities or kinds of private sewage facilities in the area;

"(3) require modifications or improvements to existing private sewage facilities or impose limitations on their use; and

"(4) provide for a gradual and systematic reduction of the number

or kinds of private sewage facilities in the area.

"(d) The Board may provide in the regulations for a system of licensing of private sewage facilities in the area, including procedures for cancellation of a license for violation of this Act, the license, or the orders or regulations of the board. The board may also provide in the system of licensing for periodic renewal of the licenses, but this may not be required more frequently than once a year. The board may delegate the licensing function and the administration of the licensing system to the executive director or to any local government whose boundaries include the area or which has been designated by the board under Section 3.29 of this Act as the agency to develop a regional waste disposal system which includes the area. The board also may prescribe and require the payment of reasonable license fees by an applicant for a license, including fees for periodic renewal of a license. The board may change the amount of the license fees from time to time. The amount of the fees shall be based on the reasonable cost of performing the licensing function and administering the licensing system, including, where applicable, costs of soil percolation and other tests to determine the suitability of using a particular type or types of private sewage facilities in the area or at any location within the area, field inspections, travel, and other costs directly attributable to performing the licensing function and administering the licensing system. If the board or the executive director has the responsibility for performing the licensing function, the license fees shall be paid to the board; those fees shall not be deposited in the general revenue fund of the State, but shall be deposited in a special fund for use by the board in performing the licensing function and administering the licensing system, and the fees so deposited are hereby appropriated to the board to use for those purposes only. If a local government has the responsibility for performing the licensing function, the fees shall be paid to the local government.

"(e) Whenever it appears to the Commissioners Court of any county that the use of private sewage facilities in an area within the county is

causing or may cause pollution, or is injuring or may injure the public health, the county may proceed in the same manner and in accordance with the same procedures as the board to hold a public hearing and enter an order, resolution or other regulation as it may consider appropriate to abate or prevent pollution or injury to public health. The order, resolution, or other regulation may provide the same restrictions and requirements as are authorized for an order of the board entered under this section. Before the order, resolution, or other regulation becomes effective, the county shall submit it to the Board and obtain the board's written approval. In the event of any conflict within an area between an order adopted by the board and an order, resolution, or other regulation adopted by a county under this section, the order of the board shall take precedence.

"(f) Where a system of licensing has been ordered by the board or the Commissioners Court of a county, no person may install or use private sewage facilities required to be licensed thereunder without obtaining such a license."

Section 2. Sections 3.26, 3.27, and 3.28 of the Texas Water Quality Act, as amended (codified as Article 7621d-1, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 3.26. WATER QUALITY MANAGEMENT PLANS. (a) The board may develop and prepare, and from time to time revise, comprehensive water quality management plans for the different areas of the State, as designated by the board.

"(b) The board may contract with local governments, regional planning commissions, planning agencies, other State agencies, colleges and universities in the State, and any other qualified and competent person to assist the board in developing and preparing, and from time to time revising, water quality management plans for areas designated by the board.

"(c) With funds provided for the purpose by legislative appropriation, the board may make grants or interest-free loans to, or contract with, local governments, regional planning commissions, and planning agencies to pay administrative and other ex-

penses of such entities for developing and preparing, and from time to time revising, water quality management plans for areas designated by the board. The period of time for which funding under this provision may be provided for developing and preparing, or for revising, a plan may not exceed three consecutive years in each instance. Any loan made pursuant to this subsection shall be repaid when the construction of any project included in the plan is begun.

"(d) Any person developing or revising a plan shall, during the course of the work, consult with the board, and with local governments and other federal, State, and local governmental agencies which in the judgment of the board or the executive director may be affected by or have a legitimate interest in the plan.

"(e) Insofar as may be practical, the water quality management plans shall be reasonably compatible with the other governmental plans for the area, such as area or regional transportation, public utility, zoning, public education, recreation, housing, and other related development plans.

"Section 3.27. APPROVAL OF PLANS. (a) After a water quality management plan has been prepared or significantly revised, as authorized in Section 3.26 of this Act, it shall be submitted to the board and to such local governments and other federal, State, and local governmental agencies as in the judgment of the board or the executive director may be affected by or have a legitimate interest in the plan.

"(b) After a reasonable period of time as determined by the board for the persons to whom the plan was submitted to review and consult on the plan, a public hearing shall be held on whether the plan should be approved or whether the plan should be modified in any way. Notice of the hearing shall be given to the person or persons who prepared or revised the plan and to the persons to whom the plan was submitted for review.

"(c) After the public hearing if the board finds that the plan complies with the policy and purposes of this Act and the rules and policies of the board, it shall approve the plan. If the board does not so find, it may disapprove the plan, modify the plan as necessary so that it will comply, or

return it for further development and later resubmission to the board, in accordance with the procedure in Section 3.26 and this section.

"(d) When a water quality management plan has been approved as provided in this section, the plan may be furnished to the Federal Environmental Protection Agency, the Federal Water Quality Administration, or any other federal official or agency in fulfillment of any federal water quality management planning requirement specified for any purpose by the federal government.

"(e) The board may use an approved water quality management plan, or a plan in progress but not completed or approved, in reviewing and making determinations on applications for permits and on applications for financial assistance for construction of treatment works.

"Section 3.28. FISCAL CONTROL ON WATER QUALITY MANAGEMENT PLANNING. In administering the program for making grants and loans to and contracting with local governments, regional planning commissions, and planning agencies, as authorized in Subsection (c) of Section 3.26 of this Act, the board shall adopt rules and procedures for the necessary engineering review and supervision, fiscal control, and fund accounting. The fiscal control and fund accounting procedures are supplemental to other procedures prescribed by law."

Section 3. Section 5.05 of the Texas Water Quality Act, as amended (codified as Article 7621d-1, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 5.05. COOPERATIVE AGREEMENTS. (a) A local government may execute cooperative agreements with the board or other local governments:

"(1) to provide for the performance of water quality management, inspection, and enforcement functions and to provide technical aid and educational services to any party to the agreement; and

"(2) for the transfer of money or property from any party to the agreement to another party to the agreement for the purpose of water quality management, inspection, enforcement, technical aid and education, and

the construction, ownership, purchase, maintenance, and operation of disposal systems.

"(b) Whenever in the opinion of the board it would facilitate and enhance the performance by a local government of its water quality management, inspection, and enforcement functions pursuant to a cooperative agreement between the local government and the board, as authorized in Subsection (a) of this section, the board may assign and delegate to the local government during the period of the agreement such of the pertinent powers and functions vested in the board under this Act as in the judgment of the board may be necessary or helpful to the local government in performing those management, inspection, and enforcement functions. At any time and from time to time, prior to the termination of the cooperative agreement, the board may modify or rescind any such assignment or delegation. The board shall notify immediately a local government to whom it assigns or delegates any powers and functions pursuant to this subsection or as to when it modifies or rescinds any such assignment or delegation."

Section 4. The Texas Water Quality Act, as amended (codified as Article 7621d-1, Vernon's Texas Civil Statutes), is amended by adding a new Section 5.06 to Subchapter E to read as follows:

"Section 5.06. DISPOSAL SYSTEM RULES. (a) Every local government which owns or operates a disposal system is empowered to and shall, except as authorized in Subsection (c) of this section, enact and enforce rules, regulations, ordinances, orders, or resolutions (hereafter in this section referred to as rules) to control and regulate the type, character and quality of waste which may be discharged to the disposal system and, where necessary to require pretreatment of waste to be discharged to the system, so as to protect the health and safety of personnel maintaining and operating the disposal system and to prevent unreasonable adverse effects on the disposal system.

"(b) The local government in its rules may establish the charges and assessments which may be made to and collected from all persons who discharge waste to the disposal sys-

tem or who have conduits or other facilities for discharging waste connected to the disposal system (hereafter in this subsection referred to as 'users'). The charges and assessments shall be equitable as between all users and shall correspond as near as can be practically determined to the cost of making the waste disposal services available to all users and of treating the waste of each user or class of users. The charges and assessments may include user charges, connection fees, or any other methods of obtaining revenue from the disposal system available to the local government. In establishing the charges and assessments, the local government shall take into account:

"(1) the volume, type, character, and quality of the waste of each user or class of users;

"(2) the techniques of treatment required;

"(3) any capital costs and debt retirement expenses of the disposal system required to be paid for from the charges and assessments;

"(4) the costs of operating and maintaining the system to comply with this Act and the permits, rules and orders of the board; and

"(5) any other costs directly attributable to providing the waste disposal service under standard, accepted cost-accounting practices.

"(c) A local government may apply to the board for an exception from the requirements of Subsections (a) and (b) of this section or for a modification of those requirements. The application shall contain the exception or modifications desired, the reasons the exception or modifications are needed, and the grounds authorized in this subsection on which the board should grant the application. A public hearing on the application shall be held in or near the territorial area of the local government and notice of the hearing shall be given to the local government. If after the hearing the board in its judgment determines that the volume, type, character, and quality of the waste of the users of the system, or of a particular user or class of users of the system, do not warrant the enactment and enforcement of rules containing the requirements prescribed in Subsections (a) and (b) of this section, or that the enactment and enforce-

ment of the rules would be impractical or unreasonably burdensome on the local government in relation to the public benefit to be derived, then the board in its discretion may enter an order granting an exception to those requirements or modifying those requirements in any particular in response to circumstances shown to exist.

"(d) At any time and from time to time, as circumstances may require, the board may amend or revoke any order it enters pursuant to Subsection (c) of this section. Before the board amends or revokes such an order, a public hearing shall be held in or near the territorial area of the local government in question, and notice of the hearing shall be given to the local government. If after the hearing the board in its judgment determines that the circumstances on which it based the order have changed significantly or no longer exist, the board may revoke the order or amend it in any particular in response to the circumstances then shown to exist.

"(e) In the event of any conflict between the provisions of this section and any other laws or parts of laws, the provisions of this section shall control."

Section 5. The Texas Water Quality Act, as amended (codified as Article 7621d-1, Vernon's Texas Civil Statutes), is amended by adding a new Section 5.07 to Subchapter E of the Act, to read as follows:

"Section 5.07. WATER POLLUTION CONTROL DUTIES OF CITIES.

"(a) Every city in this State having a population of 5,000 or more inhabitants shall, and any city of this State may, establish a water pollution control and abatement program for the city. The city shall employ or retain an adequate number of personnel, on either a part-time or full-time basis as the needs and circumstances of the city may require, who by virtue of their training or experience are qualified to perform the water pollution control and abatement functions required to enable the city to carry out its duties and responsibilities under this section.

"(b) The water pollution control and abatement program of a city shall encompass the entire city and may include areas within its extraterri-

torial jurisdiction which in the judgment of the city should be included to enable the city to achieve the objectives of the city for the area within its territorial jurisdiction. The city shall include in the program the services and functions which, in the judgment of the city or as may be reasonably required by the board, will provide effective water pollution control and abatement for the city, including the following services and functions:

"(1) the development and maintenance of an inventory of all significant waste discharges into or adjacent to the water within the city and, where the city so elects, within the extraterritorial jurisdiction of the city, without regard to whether or not the discharges are authorized by the board;

"(2) the regular monitoring of all significant waste discharges included in the inventory prepared pursuant to Paragraph (1), above;

"(3) the collecting of samples and the conducting of periodic inspections and tests of the waste discharges being monitored to determine whether the discharges are being conducted in compliance with this Act and any applicable permits, orders or regulations of the board, and whether they should be covered by a permit from the board;

"(4) in cooperation with the board, a procedure for obtaining compliance by the waste dischargers being monitored, including where necessary the use of legal enforcement proceedings; and

"(5) the development and execution of reasonable and realistic plans for controlling and abating pollution or potential pollution resulting from generalized discharges of waste which are not traceable to a specific source, such as storm sewer discharges and urban run-off from rain water."

Sec. 6. Severability Clause. The provisions of this Act are severable. If any word, phrase, clause, sentence, section, provision or part of this Act should be held to be invalid or unconstitutional, it shall not affect the validity of the remaining portions, and it is hereby declared to be the legislative intent that this Act would have been passed as to the remaining portions, regardless of the invalidity of any part.

Sec. 7. Emergency Clause. The importance to the public of the amend-

ments in this Act creates an emergency and imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended; and this Act shall take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was adopted.

**House Concurrent Resolution 164
on Second Reading**

The President laid before the Senate the following resolution:

H. C. R. No. 164—Requesting that S. B. No. 727 be returned to the House of Representatives for further deliberation.

By unanimous consent, the resolution was considered immediately and was adopted.

**House Concurrent Resolution 167
on Second Reading**

The President laid before the Senate the following resolution:

H. C. R. No. 167—Requesting that a duplicate copy of S. B. No. 778 be sent to the House of Representatives in order that the House may consider same.

By unanimous consent, the resolution was considered immediately and was adopted.

Bills and Resolutions Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

S. B. No. 978.

S. B. No. 706.

S. B. No. 927.

S. B. No. 302.

S. B. No. 727.

S. B. No. 786.

S. B. No. 514.

S. B. No. 921.

S. B. No. 862.

S. B. No. 792.

S. B. No. 592.

S. B. No. 574.

S. B. No. 409.

S. B. No. 965.

S. B. No. 531.

S. B. No. 711.

S. B. No. 971.

S. B. No. 588.

S. B. No. 634.

S. B. No. 671.

S. B. No. 133.

S. B. No. 350.

S. B. No. 249.

S. B. No. 216.

S. B. No. 910.

S. B. No. 252.

S. B. No. 700.

S. B. No. 984.

S. B. No. 900.

S. B. No. 977.

S. B. No. 130.

S. B. No. 410.

S. B. No. 437.

S. B. No. 76.

S. B. No. 701.

S. B. No. 87.

S. B. No. 966.

S. B. No. 32.

S. B. No. 448.

S. B. No. 492.

S. B. No. 666.

S. C. R. No. 111.

S. C. R. No. 82.

S. C. R. No. 23.

S. C. R. No. 20.

S. C. R. No. 10.

Recess

On motion of Senator Aikin the Senate at 1:26 o'clock p.m. took recess until 2:30 o'clock p.m. today.

After Recess

The President called the Senate to order at 2:30 o'clock p.m. today.

(Senator Aikin in Chair).

Senate Bill 1031 on Second Reading

Senator Watson moved that Senate Rules 13, 30 and 36 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S. B. No. 1031 be placed on its second reading and passage to engrossment and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

| | |
|------------|----------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Moore |
| Brooks | Patman |
| Christie | Ratliff |
| Connally | Schwartz |
| Creighton | Sherman |
| Grover | Snelson |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |
| Hightower | |

The Presiding officer then laid before the Senate on its second reading and passage to engrossment the following bill:

S. B. No. 1031, A bill to be entitled "An Act amending Senate Bill No. 398, Acts of the 62nd Legislature, 1971, relating to providing for a minimum brucellosis blood test and an alternate bovine brucellosis test for dairy cattle; and declaring an emergency."

The bill was read the second time and was passed to engrossment.

Senate Bill 1031 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the President laid S. B. No. 1031 before the Senate on its third reading and final passage.

The bill was read the third time and was passed by the following vote:

Yeas—31

| | |
|------------|----------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Moore |
| Brooks | Patman |
| Christie | Ratliff |
| Connally | Schwartz |
| Creighton | Sherman |
| Grover | Snelson |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |
| Hightower | |

Message From the House

Hall of the House of Representatives

Austin, Texas,
May 24, 1971.

Hon. Ben Barnes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 161, Making certain corrections in House Bill No. 1656.

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Rule 52 Suspended on
Senate Bill 369

Senator Mauzy moved to suspend Senate Rule 52 in order that he might move to reconsider the vote by which the Conference Committee Report on S. B. No. 369 was adopted.

The motion prevailed by the following vote:

Yeas—26

| | |
|------------|-----------|
| Aikin | Hightower |
| Bates | Jordan |
| Beckworth | Kennard |
| Bernal | Kothmann |
| Bridges | Mauzy |
| Brooks | McKool |
| Christie | Patman |
| Connally | Schwartz |
| Grover | Sherman |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |

Nays—4

| | |
|-----------|---------|
| Blanchard | Ratliff |
| Creighton | Snelson |

Absent

Moore

(President in Chair.)

**Vote on Adoption of Conference
Committee Report on Senate
Bill 369 Reconsidered**

On motion of Senator Mauzy and by unanimous consent, the vote by which the Senate adopted the Conference Committee Report on S. B. No. 369 was reconsidered.

Question—Shall the Conference Committee Report on S. B. No. 369 be adopted?

The Conference Committee Report was again adopted by the following vote:

Yeas—24

| | |
|------------|-----------|
| Bates | Hightower |
| Beckworth | Jordan |
| Bernal | Kennard |
| Bridges | Kothmann |
| Brooks | Mauzy |
| Christie | McKool |
| Connally | Patman |
| Grover | Schwartz |
| Hall | Sherman |
| Harrington | Wallace |
| Harris | Watson |
| Herring | Wilson |

Nays—7

| | |
|-----------|---------|
| Aikin | Ratliff |
| Blanchard | Snelson |
| Creighton | Word |
| Moore | |

Report of Standing Committee

By unanimous consent, Senator Herring submitted the following report for the Committee on Jurisprudence:

H. B. No. 1069 (Floor report).

House Bill 1069 Ordered Not Printed

On motion of Senator Hightower and by unanimous consent, H. B. No. 1069 was ordered not printed.

**Committee Substitute
Senate Bill 1012 on Second Reading**

On motion of Senator Harris and by unanimous consent, the regular or-

der of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C. S. S. B. No. 1012, A bill to be entitled "An Act relating to the status of an area encompassed by the building structure of certain professional sports stadiums and by regional airports in certain counties of over 500,000 population; amending Section 23, Article I, Texas Liquor Control Act, as amended (Article 666-23, Vernon's Texas Penal Code); and declaring an emergency."

The bill was read second time and passed to engrossment.

**Committee Substitute
Senate Bill 1012 on Third Reading**

Senator Harris moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that C. S. S. B. No. 1012 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—23

| | |
|------------|----------|
| Bates | Herring |
| Beckworth | Jordan |
| Bernal | Kennard |
| Blanchard | Kothmann |
| Bridges | McKool |
| Brooks | Moore |
| Connally | Patman |
| Creighton | Schwartz |
| Grover | Sherman |
| Hall | Wallace |
| Harrington | Wilson |
| Harris | |

Nays—8

| | |
|-----------|---------|
| Aikin | Ratliff |
| Christie | Snelson |
| Hightower | Watson |
| Mauzy | Word |

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—21

| | |
|-----------|---------|
| Bates | Bernal |
| Beckworth | Bridges |

| | |
|------------|-----------|
| Brooks | Hightower |
| Christie | Jordan |
| Connally | Kennard |
| Creighton | Kothmann |
| Grover | McKool |
| Hall | Moore |
| Harrington | Patman |
| Harris | Sherman |
| Herring | |

Nays—10

| | |
|-----------|---------|
| Aikin | Snelson |
| Blanchard | Wallace |
| Mauzy | Watson |
| Ratliff | Wilson |
| Schwartz | Word |

House Bill 339 Ordered Not Printed

On motion of Senator Christie and by unanimous consent, H. B. No. 339 was ordered not printed.

Senate Bill 911 With House Amendment

Senator Christie called S. B. No. 911 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the following House amendment before the Senate:

Committee Amendment No. 1

Amend S. B. No. 911 by striking all below the enacting clause and substituting in lieu thereof the following:

Section 1. Subsections (b) and (d), Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended by Section 1, Chapter 563, Acts of the 60th Legislature, Regular Session, 1967 (Article 1269j-4.1, Vernon's Texas Civil Statutes), are amended to read as follows:

"(b) Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city and shall be secured by a pledge of and be payable from all or any designated part of the revenues of said public improvements or said parking or storage facilities, as may be provided in the ordinance or ordinances authorizing the issuance of such bonds. To the extent that such revenues may have been pledged to the payment of revenue or revenue refunding bonds which are still outstanding, the pledge securing the pro-

posed bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city, and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given on all or any part of the physical properties acquired out of the proceeds from the sale of such bonds.

"(d) If any such city leases as lessee any one or more such public improvements, structures, parking areas or facilities, such city shall have authority to pledge to the lease payments required to be made by such city all or any part of the revenues of such public improvements, structures, parking areas or facilities."

Sec. 2. Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended by Section 1, Chapter 563, Acts of the 60th Legislature, Regular Session, 1967 (Article 1269j-4.1, Vernon's Texas Civil Statutes), is amended by adding Sections 3a, 3b, 3c, and 3d to read as follows:

"Section 3a. Any such city is hereby authorized to levy by ordinance a tax upon the cost of occupancy of any sleeping room furnished by any hotel, where the cost of occupancy is at the rate of \$2 or more per day. Such tax may not exceed three percent of the consideration paid by the occupant of the sleeping room to the hotel.

Section 3b. All ordinances heretofore passed and adopted by the governing body of any such city levying a tax upon the cost of occupancy of any sleeping room furnished by any hotel, where such cost of occupancy is at the rate of Two Dollars (\$2) or more per day and such tax is equal to or less than three per cent (3%) of the consideration paid by the occupant of such room to such hotel, and any bonds heretofore issued that are secured in whole or in part by a pledge of such tax, are hereby in all respects validated and held to be enforceable as of the respective date of passage and adoption of said ordinances levying such tax or issuing such bonds. All such occupancy taxes to be levied or attempted to be levied pursuant to such ordinances are hereby validated and declared fully enforceable to the same extent as if levied or attempted to be levied pursuant to valid laws duly enacted by the Legislature of this state specifically pro-

viding authority for the passage and adoption of such ordinances and the levy of such taxes.

(a) The revenue derived from any occupancy tax authorized or validated by this Act may only be used for:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities including, but not limited to, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) the furnishing of facilities, personnel and materials for the registration of convention delegates or registrants;

(3) for advertising for general promotional and tourist advertising of the city and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the city or through contracts with persons or organizations selected by the city.

"(b) Any city which levies and collects an occupancy tax which is authorized or validated by this Act may pledge a portion of the revenue derived therefrom to the payment of the bonds which the city may issue pursuant to the provisions of Section 3 of this Act, if such bonds are issued solely for one or more of the purposes set forth in the preceding subsection; provided that any city which levies and collects such tax shall reserve a portion of the tax revenue equal to at least one-half of one percent of the cost of occupancy and may reserve all of the tax revenue from the cost of the occupancy of hotel rooms for the purpose of advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities, and for the promotion of tourism and advertising of the city and its vicinity, either by the city or through contract with persons or organizations selected by the city;

"Section 3d. As hereinabove employed, the following words, terms and phrases are defined as follows:

"(a) 'Hotel' shall mean any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist

homes, houses, or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but 'hotel' shall not be defined so as to include hospitals, sanitariums, or nursing homes.

"(b) 'Consideration' shall mean the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

"(c) 'Occupancy' shall mean the use or possession, or the right to the use or possession, of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period of less than thirty (30) days.

"(d) 'Occupant' shall mean anyone, who, for a consideration uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping."

Sec. 3. The importance of this legislation and the crowded condition of the calendars in both Houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended; and that this Act take effect and be in force from and after its passage, and it is so enacted.

The House amendment was read.

Senator Christie moved that the Senate concur in the House amendment.

The motion prevailed by the following vote:

Yeas—27

| | |
|------------|----------|
| Bates | Jordan |
| Beckworth | Kennard |
| Bernal | Kothmann |
| Bridges | McKool |
| Brooks | Moore |
| Christie | Patman |
| Connally | Ratliff |
| Creighton | Sherman |
| Grover | Snelson |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |
| Hightower | |

Nays—4

Aikin
BlanchardMauzy
Schwartz

Report of Standing Committee

By unanimous consent, Senator Bridges submitted the following report for the Committee on Commerce and Industry:

H. B. No. 857.

Senate Bill 803 With
House Amendments

Senator Patman called S. B. No. 803 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the following House amendments before the Senate:

Committee Amendment No. 1

Amend Senate Bill No. 803 by striking out all below the enacting clause and inserting the following:

Section 1. This Act may be cited as the "Act for Development of Employment, Industrial and Health Resources of 1971".

Section 2. When used in this Act, unless otherwise apparent from the context:

(a) "City" means any municipality of this State incorporated under the provisions of (i) any general or special law provided the municipality has the power to levy an ad valorem tax of not less than \$1.50 on each \$100 valuation of taxable property therein, or (ii) the home rule amendment to the Constitution.

(b) "Commission" means the Texas Industrial Commission.

(c) "Cost" as applied to a project or medical project means and embraces the cost of acquisition, including the cost of the acquisition of all land, right-of-ways, property rights, easements and interests acquired for such construction, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for one year after completion of construction, cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and

practicability of constructing any such project or medical project, administrative expense and such other expense as may be necessary or incident to the acquisition thereof, the financing of such acquisition and the placing of the same in operation.

(d) "County" means a political subdivision of the State of Texas created and established under Article IX, Section 1, of the Constitution of Texas.

(e) "District" means a conservation and reclamation district established under authority of Article XVI, Section 59 or Article III, Section 52 of the Constitution of Texas.

(f) "Governing body" means the board, council, commission or legislative body of the issuer.

(g) "Issuer" means a city, county or district.

(h) "Lessee" means a corporation established under the Texas Non-Profit Corporation Act that incurs a contractual obligation with an issuer as the lessor.

(i) "Medical project" means the land, buildings, equipment, facilities and improvements (one or more) found by the governing body to be required for public health, research, and medical facilities, any one or all, within this State, irrespective of whether in existence or required to be acquired or constructed after the making of such finding by the governing body.

(j) "Project" means the land, buildings, equipment, facilities and improvements (one or more) found by the governing body to be required or suitable for the promotion of industrial development and for use by manufacturing or industrial enterprise; irrespective of whether in existence or required to be acquired or constructed after the making of such finding by the governing body.

(k) "Ultimate lessee" means the person, firm, corporation, or company which leases a project or medical project from a lessee.

Section 3. Bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the State, the issuer or of any other political subdivision or agency of this State or a pledge of the faith and credit of any of them, but such bonds shall be payable solely from the funds herein provided therefor from revenues. All such revenue bonds shall

contain on the face thereof a statement to the effect that neither the State, the issuer or any political subdivision or agency of the State shall be obligated to pay the same or the interest thereon except from revenues of the particular project or medical project for which they are issued and that neither the faith and credit nor taxing power of the State, the issuer or any political subdivision or agency thereof is pledged to the payment of the principal of or the interest on such bonds. The issuer shall not be authorized to incur financial obligations which cannot be paid from revenues realized from the lease of a project or medical projects.

Section 4. (a) In addition to any other powers which it may now have, each issuer shall have without any other authority the following powers:

(1) to acquire, whether by construction, purchase, devise, gift, or lease or any one or more of such methods, one or more medical projects or projects, located within this state, and within or partially within its limits, provided that as to a city, such project or medical project may be situated outside its territorial limits if within its extra-territorial jurisdiction as provided by the Municipal Annexation Act.

(2) to lease to a lessee any or all of its projects and medical projects for such rentals and upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of this Act;

(3) to issue revenue bonds for the purpose of defraying all or part of the cost of acquiring or improving any project or medical project, and to secure the payment of such bonds as provided in this Act.

(4) to sell and convey all or any part of any real or personal property acquired as provided by Subdivision (a) of this section, and make such order respecting the same as may be deemed conducive to the best interest of the issuer. No issuer shall have the power to operate any project, as a business or in any manner except as the lessor thereof, nor shall they have any power to acquire any such project, or any part thereof, by the exercise of eminent domain. Land previously acquired by an issuer in the exercise of the power of eminent domain may be sold, leased

or otherwise utilized under the provisions of this act, provided the governing body determines (a) that such use will not interfere with the purpose for which such land was originally acquired or is no longer needed for such purpose, and (b) at least seven years have elapsed since such land was so acquired, and (c) such land was not acquired for park purposes unless such sale or lease or park land has been approved at an election held under authority of Article 1112, Revised Civil Statutes of Texas, 1925, as amended.

Section 5. No issuer shall institute proceedings to authorize bonds under the provisions of Section 6(a) or 6(c) until the Commission has given tentative approval to the suggested contents of the lease agreement, and if a lessee is permitted to sub-lease, the Commission has also tentatively approved the financial responsibility of the ultimate lessee.

The Commission shall prescribe rules and regulations setting forth minimum standards for lease agreements and guidelines with respect to financial responsibilities of the lessee and ultimate lessee, if any, but in no event shall the Commission give final approval to any agreement unless it affirmatively finds the lessee and ultimate lessee have the business experience, financial resources and responsibility to provide reasonable assurance that all bonds and interest thereon to be paid from or by reason of such agreement will be paid as the same becomes due.

Appeal from any adverse ruling or decision of the Commission under this Section may be made by an issuer to the District Court of Travis County. The substantial evidence rule shall apply.

Rules, regulations and guidelines promulgated by the Commission, and amendments thereto, shall be effective only after they have been filed with the Secretary of State.

Section 6. (a) Before issuing any bonds hereunder the governing body shall adopt a resolution declaring its intention to do so, stating the amount of bonds proposed to be issued, the purpose for which the bonds are to be issued, and the tentative date upon which the governing body proposes to authorize the issuance of such bonds. Such resolution shall be published once a week for at least two consecutive weeks in at least one newspaper of general circulation in

the territorial limits of the issuer. The first publication shall be made not less than 14 days prior to the tentative date fixed in such resolution for the authorization of the bonds. If 10 percent of the qualified electors of the issuer shall file a written protest against the issuance of such bonds on or before the tentative date specified for the authorization of such bonds, then an election on the question of the issuance of such bonds shall be called and held as herein provided.

If no such protest be filed, then such bonds may be issued without an election at any time within a period of two years after the tentative date specified in the resolution; provided however, the governing body of such issuer, in its discretion, may call an election on such question, in which event it shall not be necessary to publish the notice of its intention to issue bonds.

(b) Where an election is called, notice thereof shall be published once a week for at least two consecutive weeks, in at least one newspaper of general circulation within the territorial limits of the issuer. The first publication of such notice shall be made not less than 14 days prior to the date fixed for such election. The election shall be conducted in accordance with the general laws of Texas pertaining to general elections, except as modified by the provisions of this Act. The order calling the election shall specify the date, place or places of holding the election, the presiding judge and alternate judge for each voting place, and shall provide for clerks as provided in the Election Code. Only qualified property tax-paying electors who own taxable property which has been duly rendered for taxation shall be permitted to vote at such election.

The form of ballot shall be in conformity with Sections 61, 62, and 63, Texas Election Code, as amended (Articles 6.05, 6.06, 6.07, Vernon's Texas Election Code), so that ballots provide for voting for or against the proposition: "The issuance of revenue bonds for the (medical project or project)".

Within 10 days after such election is held, or as soon thereafter as possible, the governing body of the issuer shall convene and canvass the returns of the election, and in the event such election results favorably (majority vote) to the proposition

such governing body shall so find and declare and shall be (subject to the provisions of Section 5) authorized to proceed with the authorization of bonds.

(c) A series of bonds may be issued for each project or medical project and any of such projects may be combined in a single series of bonds if the governing body, in the exercise of its discretion, deems the same to be in the best interest of the issuer, but each project or medical project shall be considered separately with respect to the provisions of Section 5, 6(a), 6(b), and 6(c).

(d) Bonds shall be issued and delivered within three years of the tentative approval of the Commission, or within 3 years of the final judgment in any litigation affecting the validity of the bonds or the provision made for their payment, whichever date is later. Nothing herein shall be construed as prohibiting the Commission from conditioning its approval of the project or medical project upon the completion of the financing thereof within a lesser period of time.

Section 7. Each issuer is hereby authorized to provide by resolution, from time to time, for the issuance of revenue bonds for the purpose of paying all or any part of the cost of acquiring, constructing, enlarging or improving a project or medical project except revenue bonds for a medical project may not be authorized by a district. The principal of and the interest on such bonds shall be payable solely from the funds provided for such payment and from the revenues of the particular project for which such bonds were authorized. The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times, not exceeding forty (40) years from their date, as may be determined by the issuer and may be made redeemable before maturity, at the option of the issuer, at such price or prices and under such terms and conditions as may be fixed by the issuer prior to the issuance of the bonds.

The issuer shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or

trust company within the state. Provision may be made for execution of the bonds and coupons (if any) under the provisions of Article 717j-1, Revised Civil Statutes of Texas, 1925, as amended. In cases where any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery. The bonds may be issued in coupon or in registered form, or both, as the issuer may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. If the duty of such reconversion is imposed on the Trustee in a Trust Agreement the substituted coupon bonds need not be reapproved by the Attorney General of Texas, and they shall remain incontestable. The issuer may sell bonds so the net interest cost (as defined in Article 717k-2) shall not exceed 10% per annum and such bonds shall be sold to the highest bidder for cash (not exchanged for property).

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or medical project for which issued, and shall be disbursed in such manner and under such restrictions, if any, provided in the resolution authorizing their issuance or in the trust agreement securing the same. If the proceeds of the bonds of any issue shall exceed the cost of the project or medical project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the issuer may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable or definitive bonds when such bonds shall have been executed and are available for delivery. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau or agency of the state,

and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

Before any issuer may deliver any bonds authorized hereunder to the purchaser thereof, the proceedings authorizing their issuance and securing the bonds shall be presented to the Attorney General of Texas for examination and approval. If the bonds shall have been duly authorized in accordance with the Constitution and laws of the State and constitute valid and binding obligations of the Authority, according to their tenor and effect, and proper revenues have been pledged to their payment, he shall approve the bonds. Without such approval the bonds cannot be so issued and delivered to the purchaser. The bonds when approved shall be registered by the Comptroller of Public Accounts of the State of Texas. After such approval and registration the bonds shall be incontestable.

Section 8. An issuer is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding, issued on account of a project or medical project, which shall have been issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the issuer for the additional purpose of constructing improvements, extensions or enlargements to the project or medical project in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the issuer in respect of the same, shall be governed by the provisions of this Act insofar as the same may be applicable. Within the discretion of the issuer the refunding bonds may be issued in exchange for outstanding bonds or may be sold and the proceeds used for the purpose of redeeming outstanding bonds.

Section 9. Any bonds issued under the provisions of this Act may be secured by a trust agreement by and between the issuer and a corporate trust-

tee, which may be any trust company or bank having the powers of a trust company within the State. Any such trust agreement may pledge or assign lease revenues to be received from a lessee or ultimate lessee.

The trust agreement may evidence a pledge of the lease income to be received for the use of any project or medical projects for the payment of principal of and interest on such bonds as the same shall become due and payable and may provide to create and maintain reserves for such purposes. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the issuer, or lessee in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the project or medical project in connection with which such bonds shall have been authorized, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the issuer. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing any such trust agreement may contain such provisions as the issuer may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the project or medical project.

Section 10. Each bond issued under the provisions of this Act shall contain substantially the following language:

"No pecuniary obligation is or may be imposed upon the issuer of this bond in the event there is a failure

to pay all or part of the principal or interest thereon, except the issuer is obligated to apply rental income it receives from the project (or medical project) to such purposes."

Any agreement between a lessee and ultimate lessee relating to any project shall be for the benefit of the issuer as shall any agreement between the issuer and the lessee. Any such agreement shall contain a provision that in the event of a default in the payment of the principal of or the interest on such bonds or in the performance of any agreement contained in such proceedings, mortgage, or instrument such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the revenues from the project in accordance with such resolution, mortgage or instrument.

Any mortgage to secure bonds issued thereunder, may also provide that, in the event of a default in the payment thereof or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Such mortgage may also provide that any trustee under such mortgage or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale if the highest bidder therefor.

An issuer may grant a lessee or ultimate lessee an option to purchase all or any part of a project or medical project when all bonds of the issuer delivered to provide such facilities have been paid or provision has been made for their final payment, provided during the time the bonds or interest thereon remains unpaid there is no failure to pay the lease rentals at the time and in manner as the same become due, provided a payment shall be deemed paid when and as due if no event of default is declared and the payment is made within 15 calendar days of the date it was scheduled to become due. The provisions of this law are procedurally exclusive for authority to convey or grant an option to purchase, and reference to no other law shall be required.

Section 11. No issuer may acquire or construct any project or medical

project for any individual, firm, partnership, or corporation, or make or permit any lease to any individual, firm, partnership, or corporation where the effect of such lease shall be to remove lessee's business from existing facilities within the State of Texas.

Section 12. Except as limited by the provisions of this law or as limited by the rules, regulations and guidelines of the Commission, each governing body shall have full and complete authority with respect to bonds, lease agreements and the provisions thereof.

No bonds shall be approved by the Attorney General until the Commission has given final approval to the lease agreement, nor shall such bonds be approved if any authorizing proceedings or provisions for security and payment of lease payments are not in conformity with this law.

Section 13. All contracts for construction or purchases involving the expenditure of more than \$2,000 may be made only after advertising in the manner provided by Chapter 163, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes). The provisions of Article 5160, Revised Civil Statutes of Texas, 1925, as amended, relating to performance and payment bonds, shall apply to construction contracts let by the issuer.

Bonds shall not be issued to acquire existing facilities for the purpose of again leasing the same to the same industrial concern or one controlled by such industrial concern and it shall be the duty of the Commission to investigate such matters before giving its tentative approval of any project or medical project.

Section 14. In carrying out the purposes of this Act, the issuer will be performing an essential public function and any bonds issued by it and their transfer and the issuance therefrom, including any profits made in the sale thereof, shall at all times be free from taxation by the state or any municipality or political subdivision thereof.

Bonds issued under the provisions of this Act, and coupons (if any) representing interest thereon, shall when delivered be deemed and construed (i) to be a "Security" within the meaning of the Uniform Commercial Code—In-

vestment Securities (Chapter 785, Acts of the 60th Legislature, Regular Session, Volume 2, page 2343) and shall be exempt securities under the Texas Securities Act. A lease agreement under this Act shall not be a security within the meaning of the Texas Securities Act.

Section 15. Bonds approved by the Attorney General shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for any sinking funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas, and shall be lawful and sufficient security for said deposits at their face value when accompanied by all unmatured coupons, if any, appurtenant thereto.

Section 16. In the event any city, county, navigation district or other political subdivision, in the exercise of the power of relocation, or any other power, makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction of any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipelines, all such necessary relocation, raising, lowering, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the city, county, navigation district or other political subdivision. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or changing the grade of, or alteration of construction to provide comparable replacement without enhancement, of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Section 17. The Legislature hereby recognizes there is some confusion as to the proper qualification of electors in the light of recent court decisions. It is the intention of this Act to provide a permitted procedure for an elec-

tion to authorize the issuance of revenue bonds, but in each instance the authority shall be predicated upon the expression of the will of the majority of those who cast valid ballots at an election called for the purpose. Should the governing body calling an election determine that all qualified electors, including those who own taxable property which has been duly rendered for taxation, should be permitted to vote at an election (by reason of the aforesaid court decisions), nothing herein shall be construed as a limitation upon the power to call and hold an election, provided provision is made for the voting, tabulating, and counting of the ballots of the resident qualified property taxpaying electors who own taxable property which has been duly rendered for taxation separately from those who are qualified electors, and in any election so called a majority vote of the resident qualified property taxpaying voters who own taxable property which has been duly rendered for taxation and a majority vote of the qualified electors, including those who own taxable property which has been duly rendered for taxation, shall be required to sustain the proposition.

Section 18. It is hereby found, determined and declared:

(a) that the present and prospective health, safety, right to gainful employment and general welfare of the people of this state requires as a public purpose the promotion and development of new and expanded industrial manufacturing, medical and research enterprises;

(b) that community industrial development corporations in Texas have themselves invested substantial funds in successful industrial development projects and experience difficulty in undertaking additional such projects by reason of the partial inadequacy of their own funds or funds potentially available from local subscription sources and by reason of limitations of local financial institutions in providing additional and sufficiently sizeable first mortgage loans;

(c) that communities in this State are at a critical disadvantage in competing with communities in other states for the location or expansion of such enterprises by virtue of the availability and prevalent use in all

other states of financing and other special incentives, therefor, the issuance of revenue bonds by political subdivisions of the state as hereinafter provides for the promotion of industrial development, employment, public health and research is hereby declared to be in the public interest and a public purpose.

This law shall be effective without the necessity of a Constitutional amendment to the full extent permitted by present provisions of the Texas Constitution. With respect to the powers granted herein, any provision of this law which may be effective only as the result of a change in the Texas Constitution shall become effective upon the adoption of amendment proposed by H. J. R. ———; the Legislature recognizing such Constitutional amendment may be required to enable districts to proceed under this law. In no event shall any appropriation be made by the Legislature to pay all or any part of the obligation of any issuer under the provisions of this Act, and any expenses incurred by the Commission shall be paid out of funds appropriated to that agency.

Section 19. Nothing in this Act shall be construed to violate any provision of the federal or state constitutions, and all acts done under this Act shall be in such manner as will conform thereto, whether expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such constitutions, the issuer shall have the power by resolution to provide an alternative procedure conformable with such constitutions. If any provision of this Act should be invalid, such fact shall not affect the validity of any other provisions of this Act, and the Legislature hereby declares that it would have enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

Section 20. The fact that there is urgent need to provide for the Authority to proceed in the promotion of industrial development and to provide medical facilities creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Amendment No. 2

Amend Senate Bill 803 by striking out all above the enacting clause and inserting the following:

An Act to be known as the Act for development of employment, industrial and health resources of 1971 relating to the promotion of industrial development, employment, public health and research by certain political subdivisions of the State of Texas; providing the procedures to be followed and making certain findings with respect to the need for such facilities and declaring an emergency."

The House amendments were read.

Senator Patman moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S. B. No. 803 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Patman, Wilson, Hall, Word and McKool.

**House Bills and Resolutions on
First Reading**

The following bills and resolutions received from the House, were read the first time and referred to the Committees indicated:

H. J. R. No. 13, To Committee on Constitutional Amendments.

H. J. R. No. 41, To Committee on Constitutional Amendments.

H. C. R. No. 147, To Committee on Jurisprudence.

H. C. R. No. 145, To Committee on Jurisprudence.

H. C. R. No. 141, To Committee on Jurisprudence.

H. C. R. No. 134, To Committee on Jurisprudence.

H. C. R. No. 127, To Committee on Jurisprudence.

H. C. R. No. 101, To Committee on Jurisprudence.

H. C. R. No. 85, To Committee on Jurisprudence.

H. C. R. No. 73, To Committee on Jurisprudence.

H. C. R. No. 69, To Committee on Jurisprudence.

H. C. R. No. 66, To Committee on Jurisprudence.

H. C. R. No. 57, To Committee on Jurisprudence.

H. C. R. No. 54, To Committee on Jurisprudence.

H. C. R. No. 48, To Committee on Jurisprudence.

H. C. R. No. 31, To Committee on Jurisprudence.

H. B. No. 28, To Committee on Jurisprudence.

H. B. No. 124, To Committee on Education.

H. B. No. 180, To Committee on Jurisprudence.

H. B. No. 202, To Committee on Parks and Wildlife.

H. B. No. 249, To Committee on Jurisprudence.

H. B. No. 470, To Committee on Youth Affairs.

H. B. No. 575, To Committee on County, District and Urban Affairs.

H. B. No. 603, To Committee on County, District and Urban Affairs.

H. B. No. 685, To Committee on Labor and Management Relations.

H. B. No. 686, To Committee on Labor and Management Relations.

H. B. No. 727, To Committee on Environment.

H. B. No. 733, To Committee on Environment.

H. B. No. 853, To Committee on Finance.

H. B. No. 910, To Committee on County, District and Urban Affairs.

H. B. No. 1009, To Committee on Education.

H. B. No. 1287, To Committee on Insurance.

H. B. No. 1412, To Committee on Water and Conservation.

H. B. No. 1557, To Committee on State Affairs.

H. B. No. 1565, To Committee on Parks and Wildlife.

H. B. No. 1567, To Committee on State Departments and Institutions.

H. B. No. 1585, To Committee on State Affairs.

H. B. No. 1680, To Committee on County, District and Urban Affairs.

H. B. No. 1708, To Committee on County, District and Urban Affairs.

H. B. No. 1716, To Committee on Transportation.

H. B. No. 1755, To Committee on Oil and Gas.

H. B. No. 1770, To Committee on Water and Conservation.

H. B. No. 1793, To Committee on Water and Conservation.

H. B. No. 1810, To Committee on Parks and Wildlife.

H. B. No. 1846, To Committee on Water and Conservation.

(Senator Kennard in Chair.)

Report of Standing Committee

By unanimous consent, Senator Brooks submitted the following report for the Committee on State Departments and Institutions:

H. B. No. 1319.

House Bill 458 Ordered Not Printed

On motion of Senator Creighton and by unanimous consent, H. B. No. 458 was ordered not printed.

House Bill 1541 Ordered Not Printed

On motion of Senator Creighton and by unanimous consent, H. B. No. 1541 was ordered not printed.

Reports of Standing Committees

By unanimous consent, Senator Hall submitted the following reports for the Committee on County, District and Urban Affairs:

H. B. No. 1789 (Floor report).

H. B. No. 1873 (Floor report).

By unanimous consent, Senator Her-ring submitted the following report for the Committee on Jurisprudence:

H. B. No. 426 (Floor report).

Message From the House

Hall of the House of Representatives

Austin, Texas,
May 24, 1971.

Hon. Ben Barnes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to House Bill No. 866 by non-record vote.

The House has concurred in Senate amendments to House Bill No. 837 by vote of 129 Ayes, 3 Noes, 3 Present Not Voting.

The House refused to concur in Senate amendments to House Bill 750 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House conferees: Hawkins, Cavness, Nabers, Traeger, Shannon.

The House has adopted the Conference Committee Report on Senate Bill No. 43 by non-record vote.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 396 adopted by a vote of 129 Ayes, 6 Noes.

The House has adopted the Conference Committee Report on Senate Bill No. 835 by non-record vote.

The House has concurred in Senate amendments to House Bill No. 1046 by vote of 130 Ayes, 1 Noes, 3 present not voting.

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Bill 1035 on First Reading

The following local bill was introduced, read first time and referred to the Committee indicated:

By Senator Moore:

S. B. No. 1035, A bill to be entitled "An Act authorizing the School Land Board to sell and convey a certain easement on public school land in Leon County, Texas; and declaring an emergency."

To Committee on State Departments and Institutions.

**Committee Substitute
Senate Bill 876 on Second Reading**

Senator Connally asked unanimous consent to suspend the regular order of business and take up C. S. S. B. No. 876 for consideration at this time.

There was objection.

Senator Connally then moved to suspend the regular order of business and take up C. S. S. B. No. 876 for consideration at this time.

The motion prevailed by the following vote:

Yeas—20

| | |
|------------|----------|
| Bates | Kothmann |
| Beckworth | McKool |
| Bernal | Moore |
| Blanchard | Patman |
| Bridges | Ratliff |
| Connally | Schwartz |
| Hall | Sherman |
| Harrington | Snelson |
| Harris | Watson |
| Kennard | Wilson |

Nays—10

| | |
|-----------|-----------|
| Aikin | Herring |
| Brooks | Hightower |
| Christie | Jordan |
| Creighton | Mauzy |
| Grover | Wallace |

Absent

Word

The Presiding Officer laid before the Senate on its second reading and passage to engrossment:

C. S. S. B. No. 876, A bill to be entitled "An Act amending Section 16.71 and 16.79 of the Texas Education Code, Chapter 889, Acts of the

61st Legislature, Regular Session 1969, to provide for total state funding of the Foundation School program; repealing sections 16.72 through 16.78 of the Texas Education Code; Chapter 889, Acts of the 61st Legislature, Regular Session, 1969; providing for an effective date; and declaring an emergency."

The bill was read second time.

(President in Chair).

Senator Creighton offered the following amendment to the bill:

Delete Section 4 of S. B. No. 876, and substitute in lieu thereof the following:

Sec. 4. This Act shall take effect Sept. 1, 1971.

The amendment was read.

Senator Connally moved to table the amendment.

Question on the motion to table, "Yeas" and "Nays" were demanded.

The motion to table was lost by the following vote:

Yeas—11

| | |
|-----------|---------|
| Beckworth | McKool |
| Blanchard | Patman |
| Bridges | Ratliff |
| Connally | Watson |
| Harris | Wilson |
| Kothmann | |

Nays—19

| | |
|------------|-----------|
| Aikin | Hightower |
| Bates | Jordan |
| Bernal | Kennard |
| Brooks | Mauzy |
| Christie | Moore |
| Creighton | Schwartz |
| Grover | Sherman |
| Hall | Snelson |
| Harrington | Wallace |
| Herring | |

Absent

Word

Question recurring on the adoption of the amendment, the amendment was adopted.

Senator Wallace offered the following amendment to the bill:

Amend Senate Bill No. 876, by adding Section 3 thereof to read as fol-

lows: "Upon the effective date of this Act no Independent School District in the State shall thereafter be empowered to levy an ad valorem tax upon real or personal property located within the district."

The amendment was read.

(Senator Creighton in Chair).

Senator Connally moved to table the amendment.

Question on the motion to table, "Yeas" and "Nays" were demanded.

The motion to table was lost by the following vote:

Yeas—13

| | |
|-----------|---------|
| Bates | Kennard |
| Beckworth | McKool |
| Blanchard | Patman |
| Bridges | Sherman |
| Christie | Wilson |
| Connally | Word |
| Hall | |

Nays—18

| | |
|------------|----------|
| Aikin | Jordan |
| Bernal | Kothmann |
| Brooks | Mauzy |
| Creighton | Moore |
| Grover | Ratliff |
| Harrington | Schwartz |
| Harris | Snelson |
| Herring | Wallace |
| Hightower | Watson |

(President in Chair).

Question recurring on the adoption of the amendment, the amendment was adopted.

Record of Votes

Senators Connally and Kennard asked to be recorded as voting "Nay" on the adoption of the above amendment.

On motion of Senator Connally and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

Question on the engrossment of the bill, "Yeas" and "Nays" were demanded.

The bill was passed to engrossment by the following vote:

Yeas—16

| | |
|-------|-----------|
| Bates | Beckworth |
|-------|-----------|

| | |
|------------|----------|
| Bridges | Moore |
| Connally | Patman |
| Hall | Schwartz |
| Harrington | Sherman |
| Harris | Watson |
| Kothmann | Wilson |
| McKool | Word |

Nays—14

| | |
|-----------|-----------|
| Aikin | Herring |
| Bernal | Hightower |
| Blanchard | Jordan |
| Brooks | Kennard |
| Christie | Mauzy |
| Creighton | Snelson |
| Grover | Wallace |

Absent

Ratliff

Reports of Standing Committees

By unanimous consent, Senator Herring submitted the following reports for the Committee on Jurisprudence:

H. B. No. 1472. (Floor report).

S. B. No. 852 (Floor report).

S. B. No. 202. (Floor report).

S. B. No. 209 (Floor report).

S. B. No. 206 (Floor report).

S. B. No. 205 (Floor report).

S. B. No. 204 (Floor report).

S. B. No. 203 (Floor report).

H. C. R. No. 31.

H. C. R. No. 48.

H. C. R. No. 54.

H. C. R. No. 57.

H. C. R. No. 66.

H. C. R. No. 69.

H. C. R. No. 73.

H. C. R. No. 85.

H. C. R. No. 101.

H. C. R. No. 127.

H. C. R. No. 134.

H. C. R. No. 141.

H. C. R. No. 145.

H. C. R. No. 147.

S. B. No. 858 (Amended).

C. S. S. B. No. 855 (Read first time).

By unanimous consent, Senator Jordan submitted the following reports for the Committee on Labor and Management Relations:

H. B. No. 686.

H. B. No. 685.

By unanimous consent, Senator Creighton submitted the following reports for the Committee on Water and Conservation:

H. B. No. 1846.

H. B. No. 1794.

By unanimous consent, Senator Brooks submitted the following report for the Committee on State Departments and Institutions:

S. B. No. 1035 (Floor report).

Senate Bill 1035 Ordered Not Printed

On motion of Senator Moore and by unanimous consent, S. B. No. 1035 was ordered not printed.

Senate Bill 1034 on First Reading

By unanimous consent, Senator Kennard moved that Senate Rule 108 and Section 5 of Article III of the State Constitution be suspended to permit his introducing at this time, a bill, the provisions of which he explained.

The motion prevailed by the following vote:

Yeas—31

| | |
|------------|----------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Moore |
| Brooks | Patman |
| Christie | Ratliff |
| Connally | Schwartz |
| Creighton | Sherman |
| Grover | Snelson |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |
| Hightower | |

The following bill was then introduced, read first time and referred to the Committee indicated:

By Senator Kennard:

S. B. No. 1034, A bill to be entitled "An Act providing for the use of

revenues allocated to the Texas Parks Fund, repealing laws in conflict herewith; and declaring an emergency."

To Committee on State Departments and Institutions.

(President Pro Tempore in Chair).

**House Concurrent Resolution 127
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 127 was ordered not printed.

**House Concurrent Resolution 147
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 147 was ordered not printed.

**House Concurrent Resolution 145
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 145 was ordered not printed.

**House Concurrent Resolution 141
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 141 was ordered not printed.

**House Concurrent Resolution 134
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 134 was ordered not printed.

**House Concurrent Resolution 101
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 101 was ordered not printed.

**House Concurrent Resolution 85
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 85 was ordered not printed.

**House Concurrent Resolution 69
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 69 was ordered not printed.

**House Concurrent Resolution 73
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 73 was ordered not printed.

**House Concurrent Resolution 66
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 66 was ordered not printed.

**House Concurrent Resolution 57
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 57 was ordered not printed.

**House Concurrent Resolution 54
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 54 was ordered not printed.

**House Concurrent Resolution 48
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 48 was ordered not printed.

**House Concurrent Resolution 31
Ordered Not Printed**

On motion of Senator Herring and by unanimous consent, H. C. R. No. 31 was ordered not printed.

Reports of Standing Committees

By unanimous consent, Senator Herring submitted the following report for the Committee on Jurisprudence:

S. C. R. No. 51 (Floor report).

By unanimous consent, Senator Brooks submitted the following report for the Committee on State Departments and Institutions:

S. B. No. 1034 (Floor report).

By unanimous consent, Senator Creighton submitted the following reports for the Committee on Water and Conservation:

H. B. No. 611.

H. B. No. 1040.

H. B. No. 1699.

H. B. No. 1689.

H. B. No. 1700.

H. B. No. 1774.

H. B. No. 1743.

H. B. No. 1838.

H. B. No. 1856.

H. B. No. 1152.

H. B. No. 1154.

H. B. No. 1702.

By unanimous consent, Senator Connally submitted the following report for the Committee on Parks and Wildlife:

H. B. No. 1733 (Floor report).

By unanimous consent, Senator Hall submitted the following reports for the Committee on County, District and Urban Affairs.

H. B. No. 1633 (Floor report).

H. B. No. 1777 (Floor report).

House Bill 1152 Ordered Not Printed

On motion of Senator Moore and by unanimous consent H. B. No. 1152 was ordered not printed.

House Bill 1154 Ordered Not Printed

On motion of Senator Moore and by unanimous consent, H. B. No. 1154 was ordered not printed.

House Bill 1789 Ordered Not Printed

On motion of Senator Ratliff and by unanimous consent, H. B. No. 1789 was ordered not printed.

House Bill 1873 Ordered Not Printed

On motion of Senator Ratliff and by unanimous consent, H. B. No. 1873 was ordered not printed.

House Bill 1680 Ordered Not Printed

On motion of Senator Beckworth and by unanimous consent, H. B. No. 1680 was ordered not printed.

House Bill 1777 Ordered Not Printed

On motion of Senator Harrington and by unanimous consent, H. B. No. 1777 was ordered not printed.

House Bill 1733 Ordered Not Printed

On motion of Senator Harrington and by unanimous consent, H. B. No. 1733 was ordered not printed.

Senate Bill 1034 Ordered Not Printed

On motion of Senator Kennard and by unanimous consent, S. B. No. 1034 was ordered not printed.

House Bill 1846 Ordered Not Printed

On motion of Senator Harrington and by unanimous consent, H. B. No. 1846 was ordered not printed.

House Bill 1743 Ordered Not Printed

On motion of Senator Schwartz and by unanimous consent, H. B. No. 1743 was ordered not printed.

House Bill 1794 Ordered Not Printed

On motion of Senator Schwartz and by unanimous consent, H. B. No. 1794 was ordered not printed.

House Bill 1856 Ordered Not Printed

On motion of Senator Schwartz and by unanimous consent, H. B. No. 1856 was ordered not printed.

House Bill 1838 Ordered Not Printed

On motion of Senator Schwartz and by unanimous consent, H. B. No. 1838 was ordered not printed.

Senate Bill 1035 on Second Reading

Senator Moore moved that Senate Rules 13, 30 and 36 and the Constitution Rule requiring bills to be read on three several days be suspended and that S. B. No. 1035 be placed on its second reading and passage to engrossment and on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

| | |
|------------|----------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Moore |
| Brooks | Patman |
| Christie | Ratliff |
| Connally | Schwartz |
| Creighton | Sherman |
| Grover | Snelson |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |
| Hightower | |

The President Pro Tempore then laid before the Senate on its second reading and passage to engrossment the following bill:

S. B. No. 1035, A bill to be entitled "An Act authorizing the School Land Board to sell and convey a certain easement on public school land in Leon County, Texas; and declaring an emergency."

The bill was read the second time and was passed to engrossment.

Senate Bill 1035 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the President Pro Tempore laid S. B. No. 1035 before the Senate on its third reading and final passage.

The bill was read the third time and was passed.

Record of Vote

Senator Bernal asked to be recorded as voting "Nay" on the final passage of the bill.

Senate Bill 172 With House Amendments

Senator Kennard called S. B. No. 172 from the President's table for consideration of the House amendments to the bill.

The President Pro Tempore laid the bill and the following House amendments before the Senate:

Committee Amendment No. 1

Amend S. B. 172 by striking all below the enacting clause and substituting the following:

Section 1.

(a) Purpose. The Legislature of the State of Texas hereby finds and declares that certain species or subspecies of fish or wildlife are threatened with extinction and entitled to preservation and protection as a matter of general State concern. The Federal Endangered Species Conservation Act of 1969 (16 U.S.C. sec. 668aa et seq.) and the Lacey Act (18 U.S.C. secs. 42-44) together provide for the protection of fish or wildlife threatened with worldwide extinction by prohibiting the importation of endangered fish or wildlife and by restricting and regulating interstate and foreign commerce in fish or wildlife taken in violation of state, Federal, and foreign laws. The states, however, must also assume their responsibility for conserving these fish or wildlife and for

restricting the taking, possession, transportation, processing, or sale of endangered fish or wildlife within their respective jurisdictions to assure their continued survival and propagation for the aesthetic, recreational, and scientific purposes of future generations. The legislature finds that by eliminating the taking, possession, sale, or offer for sale, of species threatened with extinction in the State of Texas, and by establishing a program for conservation and restoration of these endangered species, their potential for continued existence will be strengthened.

(b) Definitions. For the purposes of this Act, the term—

(1) "fish or wildlife" means any wild mammal, fish, wild bird, amphibian, reptile, mollusk or crustacean, or any part, products, egg, or offspring thereof, or the dead body or any part thereof; or any product made therefrom;

(2) "person" means any individual, firm, corporation, association or partnership;

(3) "Director" means the Executive Director of the Texas Parks and Wildlife Department.

(c) Endangered Species.

(1) Notwithstanding any other provision of this Article, the taking, transportation, possession, processing, sale, or offer for sale within the State of Texas of any fish or wildlife on any of the following lists as of the effective date of this Act is prohibited, except, as provided in subsection (e); (i) the United States' List of Endangered Foreign Fish and Wildlife (Part 17 of Title 50 of the Code of Federal Regulations, Appendix A); (ii) the United States' List of Endangered Native Fish and Wildlife (Part 17 of Title 50 of the Code of Federal Regulations, Appendix D); (iii) species or subspecies of fish or wildlife established as threatened with statewide extinction, pursuant to the provisions of paragraphs (c) (2) to (c) (5).

(2) Forty-five days from the effective date of this Act, the Director shall declare, by order filed with the Secretary of State a proposed list of those species and subspecies of fish or wildlife which he deems to be threatened with statewide extinction in accordance with paragraph (c) (5), giving their common and scientific names by species and subspecies.

Said order shall become effective forty-five days after it is filed, during which period public comments will be solicited and received. The Director shall hold a public hearing. The Director may thereafter amend such order prior to the effective date thereof to add species and subspecies to the list, or to remove only such fish or wildlife which he may determine are not threatened with statewide extinction, as defined in paragraph (c) (5).

(3) The Director may, at any subsequent time, or upon the petition of three interested persons, conduct a departmental review of any species or subspecies of fish or wildlife on the statewide list, provided that such persons present substantial scientific evidence to warrant such a review, and he may by order amend the state's list accordingly. This order shall be effective immediately upon filing. The Director shall conduct a review of the state's endangered species list within not more than two calendar years from date of enactment and every two years thereafter and submit to the Governor a summary report of the scientific data used to support all amendments to the state's endangered species list during that biennium.

(4) In the event the Federal lists are hereafter modified by additions or deletions, such modification may be accepted as binding under section (c) (1) if, after a scientific determination in accordance with subsection (c) (5), the Director files with the Secretary of State an order accepting such modifications for the State. The Director may, on his own motion, and after a determination in accordance with subsection (c) (5), declare by order that species or subspecies not appearing on the Federal lists are threatened with statewide extinction. Any order filed under this paragraph shall be effective immediately upon filing.

(5) The Director shall inventory and investigate the status of all species and subspecies of fish and wildlife which are found in this State to determine whether they are threatened with statewide extinction. For the purposes of this Act, fish or wildlife shall be deemed to be "threatened with statewide extinction" whenever the Director determines, based upon the best scientific and commercial data available to him, and after consultation with other state game directors, Federal agencies, and other interest-

ed persons and organizations, that the continued existence of such fish or wildlife is endangered in this State due to any of the following factors: (i) the destruction, drastic modification, or severe curtailment of its habitat, or (ii) its overutilization for commercial or sporting purposes, or (iii) the effect on it of disease or predation, or (iv) other natural or man-made factors affecting its continued existence.

(6) This Act shall not apply to coyotes, cougars (also commonly known as mountain lions or panthers), prairie wolves and snakes.

(7) The Director is authorized to issue regulations to implement this subsection.

(d) Enforcement.

(1) Any person who violates the provisions of paragraph (c)(1), or any regulations issued pursuant thereto, or whoever violates any regulation or permit issued under subsection (e), shall be punished by a fine of not more than \$500 or 6 months in jail, or both. Each violation shall be a separate offense.

(2) Any officer employed and authorized by the Director, or any peace officer of the State of Texas or any police officer or peace officer of any municipality or county within the State of Texas, shall have authority to execute a warrant to search for and seize any goods, business records, merchandise or fish or wildlife taken, employed, used, or possessed in connection with a violation of any subsection of this Act. Any such officer may, without a warrant, arrest any person who such officer has probable cause to believe is violating, in his presence or view, any such subsection, or any regulation or permit provided for by this Act. An officer or agent who has made an arrest of a person in connection with any such violation may search such person or business records at the time of arrest and seize any fish or wildlife, records, or property taken, used, or employed in connection with any such violation.

(3) Goods, merchandise, fish or wildlife, or records seized under the provisions of paragraph (d) (2) shall be held by an officer or agent of the Texas Parks and Wildlife Department pending disposition of court proceedings, and thereafter be forfeited to the State for destruction or disposition as the Director may deem appropriate; Provided that, prior to

forfeiture, the Director may direct the transfer of fish or wildlife so seized to a qualified zoological, educational, or scientific institution for safekeeping, costs assessable to the defendant. The Director is authorized to issue regulations to implement this paragraph.

(e) Permits. The Director shall permit, under such terms and conditions as he may prescribe by regulation, the taking, exportation, transportation, or possession of any fish or wildlife which is threatened with statewide extinction, for educational, or scientific purposes and for propagation of such fish or wildlife in captivity, unless such exportation, possession, transportation, or taking is prohibited or permitted by any Federal law or regulation, or any other law of the State of Texas. The Director shall further permit the sale or disposal of such fish or wildlife provided, however, that they have been raised in captivity.

(f) Conservation.

(1) The Director shall conduct research on the endangered species of this State, and he shall utilize the land acquisition and other authorities vested in his office to carry out a program in the State of Texas for conserving, protecting, restoring, and propagating selected state endangered species. In addition to the land acquisition authorities vested in his office, the Director is hereby authorized to acquire by purchase, donation, or otherwise, lands or interests therein needed to carry out the purposes of this Act relating to the conservation, protection, restoration, and propagation of selected State endangered species.

(2) The Governor shall review other programs administered by him and, to the extent practicable, utilize such programs in furtherance of the purposes of this Act. The Governor shall also encourage other state and Federal agencies to utilize their authorities in furtherance of the purposes of this Act.

(3) In carrying out the programs authorized by this Act, the Director shall cooperate to the maximum extent possible with the Federal Government, with other states, and with counties within the State of Texas, and he may enter into agreements with the counties for the administration and management of any area established under this program for the conservation of the state's endangered species.

(g) Miscellaneous.

(1) None of the provisions of this Act shall be construed to apply retroactively or to prohibit entry into the State of Texas of fish or wildlife which may be lawfully imported into the United States or taken or removed from another state; provided that, this paragraph shall not be construed to permit the taking and removal from another state into this State of fish or wildlife on the Federal endangered species lists.

(2) If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Section 2.

All laws and parts of laws in conflict with this Act are repealed.

Section 3.

The importance of this legislation and the crowded condition of the calendars in both Houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended; and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Amendment No. 2

Amend Com. Amend. No. 1, S. B. No. 172, as amended, by striking Subsection (e) of Section 1 and substituting the following:

"(e) Permits. The Director shall permit, under such terms and conditions as he may prescribe by regulation, the taking from the wild of any fish or wildlife which is threatened with statewide extinction, for education, or scientific purposes and for propagation of such fish or wildlife in captivity, unless such taking is prohibited or permitted by any Federal law or regulation, or any other law of the State of Texas. The Director shall encourage the propagation of endangered species by the private sector and nothing in this Act shall prohibit the possession, transportation, exportation, sale or disposal of fish or wildlife propagated by the private sector."

Committee Amendment No. 3

Amend S. B. No. 172, by striking all above the enacting clause and substituting the following:

A BILL
TO BE ENTITLED

An Act to prohibit the manufacture, distribution, sale, purchase, or possession of any merchandise or product made from any animal or part of any animal listed on the United States Lists of Endangered Fish and Wildlife, to declare and protect species or subspecies of fish or wildlife threatened with extinction in this State, to provide a penalty for violations of this section, and to provide for conservation and study of fish and wildlife threatened with extinction in this state.

The House amendments were read.

Senator Kennard moved that the Senate concur in the House amendments.

The motion prevailed by the following vote:

Yeas—31

| | |
|------------|----------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Moore |
| Brooks | Patman |
| Christie | Ratliff |
| Connally | Schwartz |
| Creighton | Sherman |
| Grover | Snelson |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |
| Hightower | |

Conference Committee on
House Bill 1163

Senator Watson called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H. B. No. 1163 and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on H. B. No. 1163 before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment by the President of the following conferees on the part of the Senate on the bill: Senators Watson, Herring, Bates, Moore and Beckworth.

**Senate Bill 337 With
House Amendment**

Senator Jordan called S. B. No. 337 from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the following House amendment before the Senate:

Committee Amendment No. 1

Amend Senate Bill No. 337 by striking Section 1 and substituting in lieu thereof the following:

"Section 1. The Board of Regents of The University of Texas System is authorized to establish, maintain, and operate The University of Texas Nursing School (System-wide) which is composed of the following branches: The University of Texas (Undergraduate) Nursing School at Austin; The University of Texas (Graduate) Nursing School at Austin; the University of Texas (Undergraduate) Nursing School at El Paso; The University of Texas (Clinical) Nursing School at Galveston; The University of Texas (Clinical) Nursing School at San Antonio; and The University of Texas (Undergraduate) Nursing School at Tarrant County. The Board of Regents of The University of Texas System is authorized to provide for the education of nursing students at each nursing school; however, all hospital facilities and services required for the operation and maintenance of each nursing school shall be furnished and provided at no cost and expense to the State of Texas except at the Galveston Division of The University of Texas (Clinical) Nursing School at Galveston."

The House amendment was read.

Senator Jordan moved that the Senate concur in the House amendment.

The motion prevailed.

Motion in Writing

Senator Hall submitted the following Motion in Writing:

Honorable Ben Barnes, President of the Senate.

Dear Mr. President: Notice is hereby given of the intent to hold a Local and Uncontested Calendar on Wednesday, May 26, 1971, at 9:00 a.m.

HALL
Chairman
Local and Uncontested Calendar

The Motion in Writing was read and adopted.

**Conference Committee on
House Bill 203**

Senator Hall called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H. B. No. 203 and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on H. B. No. 203 before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment by the President of the following conferees on the part of the Senate on the bill: Senators Hall, Wilson, Word, Hightower and Snelson.

**Conference Committee on
House Bill 384**

Senator Hall called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H. B. No. 384 and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on H. B. No. 384 before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment

by the President of the following conferees on the part of the Senate on the bill: Senators Hall, Word, Jordan, Ratliff and Wallace.

Reports of Standing Committees

By unanimous consent, Senator Blanchard submitted the following report for the Committee on Insurance:

H. B. No. 1287 (Floor report).

By unanimous consent, Senator Creighton submitted the following reports for the Committee on Water and Conservation:

H. B. No. 1661.

H. B. No. 1385.

H. B. No. 1836.

H. B. No. 1837.

H. B. No. 1842.

H. B. No. 1793.

By unanimous consent, Senator Hall submitted the following report for the Committee on County, District and Urban Affairs:

H. B. No. 1131.

House Bill 1702 Ordered Not Printed

On motion of Senator Brooks and by unanimous consent, H. B. No. 1702 was ordered not printed.

House Bill 1633 Ordered Not Printed

On motion of Senator Word and by unanimous consent, H. B. No. 1633 was ordered not printed.

Conference Committee on House Bill 1596

Senator Harrington called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H. B. No. 1596 and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on H. B. No. 1596 before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment by the President of the following conferees on the part of the Senate on the bill: Senators Harrington, Watson, McKool, Mauzy and Word.

Message From the House

Hall of the House of Representatives

Austin, Texas,
May 24, 1971.

Hon. Ben Barnes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 122, Establishing the Committee to Study the Proper Roles of Junior Colleges and Technical Institutes.

H. C. R. No. 162, Congratulating Miss Lydia Enriqueta Rodriguez.

H. C. R. No. 165, Congratulating the People's State Bank of Baytown on its 35th anniversary.

H. C. R. No. 166, In memory of Merideth Odell Morton of Henderson, Texas.

H. B. No. 626, A bill to be entitled "An Act validating the incorporation of all cities and towns of 5,000 inhabitants or less, heretofore incorporated or attempted to be incorporated under the General Laws of Texas; validating the boundary lines thereof; validating governmental proceedings; providing that this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation; and declaring an emergency."

H. B. No. 1482, A bill to be entitled "An Act relating to the regulation of the fitting and dispensing of hearing aids and the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids; amending Subsections (a), (b), (e), (f) and (i), Section 12, and Subsection (a), Section 13, Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Articles 4566-1.12 and 4566-1.13, Vernon's Texas Civil Statutes); and declaring an emergency."

H. B. No. 1779, A bill to be entitled "An Act relating to the management,

control, and disposition of community property and a sale without joinder of a community homestead when one spouse is a prisoner of war or missing in action; relating to a receivership for separate property of a prisoner of war or a person missing in action; amending Sections 5.25 and 5.85, Title I of the Family Code; and declaring an emergency."

H. B. No. 1867, A bill to be entitled "An Act relating to the salaries of district and county officials in certain counties; amending Section 1, Chapter 528, Acts of the 57th Legislature, Regular Session, 1961 (Article 3912e-17, Vernon's Texas Civil Statutes); and declaring an emergency."

S. B. No. 727, A bill to be entitled "An Act adding Parks and Wildlife Department vehicles to those of State Agencies exempt from inscription requirements; amending Article 821, Penal Code of Texas, 1925, as amended; and declaring an emergency."

(With amendments.)

H. B. No. 1325, A bill to be entitled "An Act permitting a peace officer to take bail in misdemeanor cases; amending Articles 17.05 and 17.20, Code of Criminal Procedure, 1965; and declaring an emergency."

H. B. No. 956, A bill to be entitled "An Act amending Chapter 656, Acts of the 61st Legislature, 1969 (Article 5221f, Vernon's Texas Civil Statutes); creating a Performance Certification Board for mobile homes; providing qualifications of members; establishing its duties, responsibilities and procedures; requiring the promulgation of rules and regulations for the enforcement of standards; providing for licensing of dealers requiring seals of approval; authorizing inspections; authorizing state inspectors; authorizing delegation of inspection functions to local governments; authorizing establishment of employment and training requirements for inspectors; requiring the establishment of employment and training requirements for inspectors; requiring the establishment of a schedule of fees; providing for penalties; providing for appeals; and declaring an emergency."

H. C. R. No. 168, Welcoming the National Governors' Conference to Houston, Texas.

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Senate Concurrent Resolution 116

Senator Connally offered the following resolution:

S. C. R. No. 116, Providing for the creation of a Rio Grande River Water Study Committee.

The resolution was read and was referred to the Committee on Administration.

Reports of Standing Committees

By unanimous consent, Senator Watson submitted the following report for the Committee on Environment:

H. B. No. 733 (Floor report).

By unanimous consent, Senator Kennard submitted the following report for the Committee on Public Health:

H. B. No. 882 (Floor report).

By unanimous consent, Senator Hall submitted the following reports for the Committee on County, District and Urban Affairs:

H. B. No. 1188 (Floor report).

H. B. No. 298 (Floor report).

H. B. No. 118 (Floor report).

H. B. No. 1772 (Floor report).

H. B. No. 1680 (Floor report).

H. B. No. 1099 (Floor report).

By unanimous consent, Senator Snelson submitted the following reports for the Committee on Oil and Gas:

H. B. No. 1755 (Floor report).

H. B. No. 1862 (Floor report).

House Bill 1385 Ordered Not Printed

On motion of Senator Brooks and by unanimous consent, H. B. No. 1385 was ordered not printed.

House Bill 1661 Ordered Not Printed

On motion of Senator Brooks and by unanimous consent, H. B. No. 1661 was ordered not printed.

House Bill 1836 Ordered Not Printed

On motion of Senator Brooks and by unanimous consent, H. B. No. 1836 was ordered not printed.

House Bill 1837 Ordered Not Printed

On motion of Senator Brooks and by unanimous consent, H. B. No. 1837 was ordered not printed.

House Bill 1842 Ordered Not Printed

On motion of Senator Brooks and by unanimous consent, H. B. No. 1842 was ordered not printed.

House Bill 1131 Ordered Not Printed

On motion of Senator Wallace and by unanimous consent, H. B. No. 1131 was ordered not printed.

House Bill 1099 Ordered Not Printed

On motion of Senator Kennard and by unanimous consent, H. B. No. 1099 was ordered not printed.

**Conference Committee on
House Bill 1001**

Senator Brooks called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H. B. No. 1001 and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on H. B. No. 1001 before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment by the President of the following conferees on the part of the Senate on the bill: Senators Brooks, Watson, Wallace, Kothmann and Bates.

**Senate Bill 727 With
House Amendment**

Senator Aikin called S. B. No. 727 from the President's table for con-

sideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the following House amendment before the Senate:

Amendment No. 1

Amend S. B. 727 by adding after the words "Parks and Wildlife Department" the words "Agencies and Branches of Government for whom appropriations are made under Article VI of the General Appropriations Bill."

The House amendment was read.

Senator Aikin moved that the Senate concur in the House amendment.

The motion prevailed.

Senate Bill 477 Re-Referred

On motion of Senator Bernal and by unanimous consent, S. B. No. 477 was withdrawn from the Committee on State Affairs and re-referred to the Committee on State Departments and Institutions.

**House Concurrent Resolution 161 on
Second Reading**

The President Pro Tempore laid before the Senate the following resolution:

H. C. R. No. 161, Making certain corrections in House Bill No. 1656.

The resolution was read.

By unanimous consent, the resolution was considered immediately and was adopted.

**Conference Committee on
House Bill 314**

Senator Moore called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H. B. No. 314 and moved that the request be granted.

The motion prevailed.

The President Pro Tempore asked if there were any motions to instruct the Conference Committee on H. B. No. 314 before appointment.

There were no motions offered.

Accordingly, the President Pro Tempore announced the appointment by the President of the following conferees on the part of the Senate on the bill: Senators Moore, Sherman, Harris, Creighton and Herring.

Reports of Standing Committees

By unanimous consent, Senator Brooks submitted the following report for the Committee on State Departments and Institutions:

S. B. No. 477 (Amended). (Floor report).

By unanimous consent, Senator Connally submitted the following report for the Committee on Parks and Wildlife:

H. B. No. 202 (Floor report).

House Bill 202 Ordered Not Printed

On motion of Senator Hightower and by unanimous consent, H. B. No. 202 was ordered not printed.

Report of Standing Committee

By unanimous consent, Senator Connally submitted the following report for the Committee on Parks and Wildlife:

H. B. No. 1810.

House Bill 1810 Ordered Not Printed

On motion of Senator Watson and by unanimous consent, H. B. No. 1819 was ordered not printed.

(President in Chair.)

Reports of Standing Committees

By unanimous consent, Senator Mauzy submitted the following report for the Committee on Education:

H. B. No. 780 (Floor report).

By unanimous consent, Senator Brooks submitted the following report for the Committee on State Departments and Institutions:

H. B. No. 1293 (Floor report).

By unanimous consent, Senator Connally submitted the following report for the Committee on Parks and Wildlife:

H. B. No. 1489 (Floor report).

House Bill 1293 Ordered Not Printed

On motion of Senator Hightower and by unanimous consent, H. B. No. 1293 was ordered not printed.

House Bill 1489 Ordered Not Printed

On motion of Senator Hightower and by unanimous consent, H. B. No. 1489 was ordered not printed.

Message From the House

Hall of the House of Representatives

Austin, Texas,
May 24, 1971.

Hon. Ben Barnes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. B. No. 4, A bill to be entitled "An Act relating to the creation of the Texas Civil Air Patrol Commission; etc., and declaring an emergency."

S. B. No. 189, A bill to be entitled "An Act authorizing school districts to contract with other school districts or with public or private post-secondary educational institutions and trade and technical schools to provide vocational classes; etc., and declaring an emergency."

S. B. No. 397, A bill to be entitled "An Act exempting from ad valorem taxation any land owned by a non-profit corporation and used solely as ecological laboratories by Texas colleges and universities; etc., and declaring an emergency."

S. B. No. 520, A bill to be entitled "An Act authorizing the Department of Mental Health and Mental Retardation to sell and convey to the City of Rusk all of the state's interest in and to a certain described tract of land in Cherokee County which was set aside to the Rusk State Hospital; and declaring an emergency."

(With amendments.)

S. B. No. 529, A bill to be entitled "An Act relating to the authority of the presiding judge of the Court of Criminal Appeals to designate and appoint certain retired appellate judges or district judges, or active appellate judges or district judges to sit as commissioners of the Court of Criminal Appeals; etc., and declaring an emergency."

S. B. No. 561, A bill to be entitled "An Act relating to the authorization for school districts to conduct special education classes for deaf children; etc.; and declaring an emergency."

S. B. No. 607, A bill to be entitled "An Act to be known as The Certificate of Obligation Act of 1971; etc., and declaring an emergency."

S. B. No. 718, A bill to be entitled "An Act amending the Texas Liquor Control Act, as amended, to enable salvaging insured losses of alcoholic beverages for qualified permittees or licensees; and declaring an emergency."

(With amendments.)

S. B. No. 811, A bill to be entitled "An Act relating to the creation and operation of Health Districts by the commissioners court etc., and declaring an emergency."

S. B. No. 919, A bill to be entitled "An Act amending Statutes authorizing the Parks and Wildlife Commission to designate a representative to act on behalf and at the pleasure of the Commission as State Liaison Officer, for the purpose of evidencing the consent and agreement of the Department in State and local assistance programs authorized by the Land and Water Conservation Fund Act of 1965; etc.; and declaring an emergency."

S. B. No. 928, A bill to be entitled "An Act amending Statutes so as to authorize the Board of Vocational Nursing Examiners to delegate the power to hold the Vocational Nursing Examinations; and declaring an emergency."

S. B. No. 941, A bill to be entitled "An Act relating to the legality of the pool system for private clubs operating on the premises of certain professional sport stadiums; etc.; and declaring an emergency."

(With amendments.)

S. B. No. 942, A bill to be entitled "An Act relating to instruction in the field of marine resources at certain institutions of higher education; etc.; and declaring an emergency."

(With amendments.)

S. B. No. 951, A bill to be entitled "An Act to permit certain individuals

to attend an adjacent public school free of tuition; and declaring an emergency."

(With amendments.)

S. B. No. 967, A bill to be entitled "An Act including the waters of Lake Livingston located in Polk, Trinity, Walker, and San Jacinto counties under the provisions of the Uniform Wildlife Regulatory Act; etc.; and declaring an emergency."

S. B. No. 344, A bill to be entitled "An Act concerning the profession of physical therapy, requiring licensure of physical therapists, establishing a Board of Physical Therapy Examiners, establishing educational and training requirements for physical therapists; and declaring an emergency."

(With amendments.)

S. B. No. 535, A bill to be entitled "An Act creating the State of Texas Building Materials and Systems Testing Laboratory including a Technical Testing and Evaluation Council; etc.; and declaring an emergency."

S. B. No. 703, A bill to be entitled "An Act relating to the reproduction, recording, and retention of records of the District Clerk by microfilm or other process which correctly and legibly reproduces or which forms a medium of copying or reproducing certain records; etc.; and declaring an emergency."

S. B. No. 513, A bill to be entitled "An Act relating to discharge of municipal sewage which does not meet certain standards into open ponds whose surface area covers more than one acre; providing a penalty; and declaring an emergency."

(With amendments.)

S. B. No. 557, A bill to be entitled "An Act requiring notices of a meeting by certain governmental bodies to be posted in its administrative office, the State Capitol, and the county courthouse of the county in which the administrative office is located; etc.; and declaring an emergency."

S. B. No. 620, A bill to be entitled "An Act prohibiting a person to kill, wound, shoot at or hunt wild animals, birds or fowl in State parks, forts or historic sites under Parks and Wild-

life Department jurisdiction; etc.; and declaring an emergency."

S. B. No. 838, A bill to be entitled "An Act validating, ratifying, confirming and approving contracts, scrip warrants and time warrants and refunding bonds authorized by counties or cities (including Home-Rule cities) or towns; etc.; and declaring an emergency."

(With amendments.)

S. B. No. 327, A bill to be entitled "An Act amending Statutes, relating to refusing, revoking, suspending, and reinstating licenses to practice chiropractic and relating to the use of ionizing radiation; and declaring an emergency."

S. B. No. 1025, A bill to be entitled "An Act relating to allowing hunting with dogs in San Augustine County; extending the open season for the taking of deer in San Augustine County; etc.; and declaring an emergency."

S. B. No. 1026, A bill to be entitled "An Act relating to changing the open season for the taking of squirrel in San Augustine and Shelby Counties; etc.; and declaring an emergency."

Respectfully submitted,

DOROTHY HALLMAN,
Chief Clerk, House of Representatives

House Bill 928 on Second Reading

Senator Christie asked unanimous consent to suspend the regular order of business and take up H. B. No. 928 for consideration at this time.

There was objection.

Senator Christie then moved to suspend the regular order of business and take up H. B. No. 928 for consideration at this time.

The motion prevailed by the following vote:

Yeas—28

| | |
|-----------|------------|
| Bates | Creighton |
| Beckworth | Grover |
| Bernal | Harrington |
| Blanchard | Harris |
| Bridges | Herring |
| Brooks | Hightower |
| Christie | Jordan |

| | |
|----------|----------|
| Kennard | Schwartz |
| Kothmann | Sherman |
| Mauzy | Snelson |
| McKool | Wallace |
| Moore | Watson |
| Patman | Wilson |
| Ratliff | Word |

Nays—3

| | |
|----------|------|
| Aikin | Hall |
| Connally | |

The President Pro Tempore laid before the Senate on its second reading and passage to third reading:

H. B. No. 928, A bill to be entitled "An Act relating to the taxation of the sale, preparation, and service of certain alcoholic beverages and providing penalties; etc.; and declaring an emergency."

The bill was read second time.

Senator Christie offered the following Committee Amendment to the bill:

Amend House Bill No. 928 as follows:

(1) Amend the quoted Section 20d in Section 1 of the bill to read as follows:

"Section 20d. (a) The word 'permittee,' as used in this section, means a Mixed Beverage Permittee, a Daily Temporary Mixed Beverage Permittee, or a Private Club Registration Permittee.

"(b) A tax at the rate of ten per cent (10%) is imposed on the gross receipts of a permittee from the sale, preparation, or service of mixed beverages, or from the sale, preparation, or service of ice or non-alcoholic beverages which are sold, prepared, or served for the purpose of being mixed with alcoholic beverages and consumed on the premises of the permittee.

"(c) Every permittee shall make and keep a record, in a form prescribed by the Commission or Administrator, of all taxable receipts and accumulate the total for each business day. A 'business day' for the purpose of this section is the period of time between 3 a.m. one day and 3 a.m. the next day. Permittees, except Daily Temporary Mixed Beverage Permittees, shall keep a copy of this record, as well as all other records of receipts and disbursements by the permittee, on file on the prem-

ises for a period of two years, and the record is open to inspection by any agent of the Commission or by any peace officer at any time. Daily Temporary Mixed Beverage Permittees shall file a copy of the records for each month with the tax return for that month as prescribed by the Commission.

"(d) On or before the fifteenth day of every month every permittee shall file with the Commission a sworn tax return. The return shall be in the form prescribed by the Commission or Administrator and shall include a statement of the total gross taxable receipts during the preceding month and such other information as the Commission or Administrator may require. Tax due for a business day which falls in two different months is allocated to the month during which the business day begins. If any permittee shall fail to file a return as required herein or shall fail to pay to the Commission the tax as imposed herein when said report or payment is due, the permittee shall forfeit five per cent (5%) of the amount due as a penalty and after thirty (30) days the penalty shall be increased to ten per cent (10%).

"(e) The tax due for the preceding month shall accompany the return and shall be in the form of a cashier's check, certified check, or postal money order, payable to the State Treasurer. The Commission shall issue a receipt for all funds received and deposit them in the state treasury allocated as follows: 90% to the credit of the general revenue fund; 10% to the credit of mixed beverage fund for expense to administer provisions of House Bill No. 928 and Senate Bill No. 346, Acts of the Sixty-Second Legislature, Regular Session, 1971, subject to the prior approval of the Governor.

"(f) The Commission shall require of every permittee a bond or bonds executed by the permittee as principal and a surety company duly qualified and doing business in this state as surety, and the bond or bonds shall be payable to the State of Texas and conditioned as the Commission may require and approved by the Attorney General as to form. The bond or bonds shall be in an amount which in the judgment of the Commission or Administrator will adequately protect the state, but in no case may the amount of the bond be less than \$1,000 or more than \$25,000.

"(g) It shall be unlawful for any Mixed Beverage Permittee, Daily Temporary Mixed Beverage Permittee or Private Club Registration Permittee to possess, or permit any person to possess on the premises, and it shall be unlawful for any Local Distributor's Permittee to knowingly sell, ship, or deliver to such premises any distilled spirits in any container not bearing a serially numbered identification stamp issued by the Commission. Such identification stamp shall be issued only to holders of Local Distributor's Permits who shall affix such stamps in a manner prescribed by the Commission or Administrator. The Commission or Administrator may, after notice and hearing, suspend for a period of up to 60 days or cancel the permit of any person who violates this subsection.

"(h) The Commission shall examine the tax account of each permittee and shall collect any additional taxes due as established through any records or information that is in the Commission's possession or any records or information that is available or may come into the Commission's possession. When additional taxes are established as due based on an examination by the Commission, a penalty equal to ten per cent (10%) thereof shall be collected with the additional taxes due. The Commission or Administrator may prescribe reasonable rules and regulations for the collection and administration of the tax imposed by this section.

"(i) No person may fail to keep any record in the manner required by this section, fail to file any return in the manner required by this section, keep a false record, or file a false return. A person who violates this subsection is punishable, upon conviction, by a fine of not more than \$1,000 or by confinement in the county jail for not more than 30 days or by both. The Commission or Administrator may, after notice and hearing, suspend for a period of up to 60 days, or cancel, the permit or any person it finds to have violated this subsection.

"(j) No person may knowingly fail to keep any record in the manner required by this section, fail to file any return in the manner required by this section, keep a false record, or file a false return. A person who violates this subsection is punishable by a fine of not less than \$500 nor more than \$1,000 and by confinement in the county jail for not less than 30

days nor more than two years. The Commission or Administrator shall cancel the permit of any permittee convicted of violating this subsection or found by the Commission or Administrator, after notice and hearing, to have violated this subsection.

"(k) No Mixed Beverage Permit, Daily Temporary Mixed Beverage Permit, or Private Club Registration Permit, may ever be issued to any of the following:

"(1) A person whose permit was cancelled because of a violation of Subsection (j) of this section or of Subsection (b), Section 20c, of this Article;

"(2) A person who held an interest of any kind in a permit that was cancelled because of a violation of Subsection (j) of this section or of Subsection (b), Section 20c, of this Article;

"(3) A person who held 50 per cent or more of the stock, either in his own name or by any other means, of a corporation whose permit was cancelled because of a violation of Subsection (b), Section 20c, of this Article or Subsection (j) of this section, if the acts on which the cancellation was based occurred while the stock was held:

"(4) A corporation if any person holding 50 per cent or more of the stock, either in his own name or by any other means, is disqualified from obtaining a permit in his individual capacity because of a violation of Subsection (b), Section 20c, of this Article or Subsection (j) of this section; or

"(5) A person residentially domiciled with a person who is barred from obtaining a permit because of a violation of Subsection (j) of this section or of Subsection (b), Section 20c, of this Article.

"(l) For the purposes of Subdivisions (3) and (4) of Subsection (k) of this Section, a person is treated as holding 50 per cent or more of the stock in a corporation if the total amount of stock owned by himself and all persons who are his parents, children, or siblings, or with whom he is residentially domiciled, equals or exceeds 50 per cent of the stock in the corporation."

"(m) For the convenience of the Commission in examining tax accounts of Mixed Beverage Permittees and Private Club Registration Permittees, it is required that each per-

mittee purchase separately and individually for each licensed premises all alcoholic beverages to be sold or served on the licensed premises."

(2) Amend paragraph (a) of the quoted Section 21 in Section 4 of the bill to read as follows:

"(a) A tax of \$2.17 per gallon on each gallon of distilled spirits, providing the minimum tax on any package of distilled spirits containing not less than $\frac{1}{2}$ pint shall be \$.139 and the minimum tax on any package of distilled spirits containing less than $\frac{1}{2}$ pint shall be \$.10.

(3) Amend Section 2 of the bill to read as follows:

Section 2. Section (d), Article 20.04, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a Subsection (4), to read as follows:

"(4) There are exempted from the taxes imposed by this Chapter the receipts from the sale, preparation, or service of mixed beverages or of ice or non-alcoholic beverages, if the receipts from the sale are taxable under Section 20d, Article I, Texas Liquor Control Act."

(4) Strike Section 3 of the bill and substitute the following:

Section 3. Subsection 6, Section 15(e), Article 1, Texas Liquor Control Act, as amended (Article 666-15(e), Vernon's Texas Penal Code), is amended to read as follows:

"6. Any club which conforms to the definition of a 'private club' as set forth in Section 1(a) of this Act shall make application for a Private Club Registration Permit on forms furnished by the Commission furnishing to the Commission all information necessary to insure compliance with this Act and the Texas Liquor Control Act. Each applicant shall furnish a true copy of his application to the Texas Alcoholic Beverage Commission District Office in the district in which the premises sought to be covered by the permit is located prior to the filing of the original thereof with the Texas Alcoholic Beverage Commission at Austin, Texas. Each private club in the State of Texas shall pay a yearly fee to the State for each separate place of business. The license fee shall be based on the highest number of members in good standing during the year for which the license fee is to be paid.

"The annual fee for permits in existence on the effective date of House

Bill 928, 62nd Legislature, Regular Session, 1971, is \$2,000 plus two dollars per member for each member in excess of 1,000 for the first annual renewal after that date; \$1,500 plus two dollars per member for each member in excess of 750 for the second annual renewal after that date; \$1,000 plus two dollars per member for each member in excess of 500 for their annual renewal after that date; and \$500 plus two dollars per member for each member in excess of 250 for each subsequent annual renewal.

"In the case of permits not in existence on that date, annual fee is \$2,000 plus two dollars per member for each member in excess of 1,000 for the original permit; \$1,500 plus two dollars per member for each member in excess of 750 for the first annual renewal; \$1,000 plus two dollars per member for each member in excess of 500 for the second annual renewal; and \$500 plus two dollars per member for each subsequent annual renewal.

"All Private Club Registration Permits shall expire one year from the date on which they are issued, and applications for renewal of Private Club Registration Permits for the following year shall be filed with the Commission within thirty (30) days prior thereto. All fees hereunder shall be prorated and collected as provided in Section 15b of the Texas Liquor Control Act. However, Section 15(a) (Article 666-15a, Vernon's Texas Penal Code) shall not be applicable. Not less than ninety (90) days prior to the expiration of the year for which the license fee is paid, a permittee may submit an amended application with such additional license fee as shall be required under the amended return.

"If after notice and hearing it is found that the average membership of such private permittee club is above that authorized by said permit or license issued the same shall be considered a violation of this Act. All books and records pertaining to the operation of any club, including a current listing (correct to the last day of the preceding month) of all members of said club who have liquor stored on the club premises under either the locker or pool system, shall be made available to the Commission upon request by the Commission or any of its authorized representatives."

(5) Strike Section 9 of the bill and substitute the following:

Section 9. The increase in the taxes imposed by Section 21, Article I, Texas Liquor Control Act, as amended, provided in this Act, takes effect on July 1, 1971. The tax imposed by Section 20d of that article, added in Section 1 of this bill, takes effect on June 1, 1971.

The Committee Amendment was read.

Senator Blanchard offered the following amendment to the Committee Amendment:

Amend the quoted Section 20d in Section 1 of Committee Amendment No. 1 to H. B. 928 to read as follows:

"Section 20d. (a) The word 'permittee,' as used in this section means a Mixed Beverage Permittee, a Daily Temporary Mixed Beverage Permittee, or a Private Club Registration Permittee.

"(b) The Permittee shall collect the sales, use and excise tax imposed by Chapter 20, Title 122A, R.C.S. of Texas, 1925, on all sales made and all services rendered for which consideration passes to such permittee, and shall report and pay same to the Comptroller pursuant to the provisions of Chapter 20, Title 122A, R.C.S.

"(c) There is hereby imposed a surtax of 100% of the amount due to the Comptroller under the sales, use and excise tax imposed by Chapter 20, Title 122A, R.C.S. of Texas, 1925, as amended, on all sales made and all services rendered on the premises of the permittee for which consideration passes to such permittee, and the permittee shall report and pay same to the Comptroller on such form and in such manner as may be prescribed by the Comptroller.

"(d) For the convenience of the Comptroller in examining tax accounts of Mixed Beverage Permittees and Private Club Permits, it is hereby required that each such permittee purchase separately and individually for each licensed premises any and all alcoholic beverages to be sold or served on the licensed premises.

"(e) No Mixed Beverage Permit, Daily Temporary Mixed Beverage Permit, or Private Club Registration Permit may ever be issued to any of the following:

"(1) A person whose permit was cancelled because of a violation of Subsection (b) or (c) of this section or of Subsection (b), Section 20c, of this Article;

"(2) A person who held an interest of any kind in a permit that was cancelled because of a violation of Subsection (b) or (c) of this section or of Subsection (b), Section 20c of this Article;

"(3) A person who held 50 per cent or more of the stock, either in his own name or by any other means, of a corporation whose permit was cancelled because of a violation of Subsection (b), Section 20c, of this Article or Subsection (b) or (c) of this section if the acts on which the cancellation was based occurred while the stock was held;

"(4) A corporation if any person holding 50 per cent or more of the stock, either in his own name or by any other means, is disqualified from obtaining a permit in his individual capacity because of a violation of Subsection (b), Section 20c, of this Article or Subsection (b) or (c) of this section; or

"(5) A person residentially domiciled with a person who is barred from obtaining a permit because of a violation of Subsection (b) or (c) of this section or of Subsection (b), Section 20c, of this Article.

"(f) For the purposes of Subdivisions (3) and (4) of Subsection (i) of this section, a person is treated as holding 50 per cent or more of the stock in a corporation if the total amount of stock owned by himself and all persons who are his parents, children, or siblings, or with whom he is residentially domiciled, equals or exceeds 50 per cent of the stock in the corporation.

"(g) The provisions of this section shall be effective on and after June 1, 1971."

The amendment to the Committee Amendment was read.

Senator Christie moved to table the amendment.

Question on the motion to table, "Yeas" and "Nays" were demanded.

The motion to table prevailed by the following vote:

Yeas—16

| | |
|-----------|----------|
| Bates | Patman |
| Beckworth | Schwartz |
| Christie | Sherman |
| Herring | Snelson |
| Jordan | Wallace |
| Kennard | Watson |
| Mauzy | Wilson |
| McKool | Word |

Nays—14

| | |
|-----------|------------|
| Aikin | Hall |
| Bernal | Harrington |
| Blanchard | Harris |
| Bridges | Hightower |
| Brooks | Kothmann |
| Creighton | Moore |
| Grover | Ratliff |

Absent

Connally

Senator Creighton offered the following amendment to the Committee Amendment:

Amend paragraph (a), Subsection (1), Section 21, Article I, Texas Liquor Control Act, as amended, as quoted in Section 4 of Committee Amendment to House Bill No. 928 to read as follows:

"(a) A tax of \$1.95 per gallon on each gallon of distilled spirits, providing the minimum tax on any package of distilled spirits containing not less than ½ pint shall be \$.122 and the tax on any package containing 2 ounces or less shall be \$.05."

The amendment to the Committee Amendment was read.

Senator Christie moved to table the amendment.

Question on the motion to table, "Yeas" and "Nays" were demanded.

The motion to table prevailed by the following vote:

Yeas—17

| | |
|-----------|------------|
| Aikin | Brooks |
| Bates | Christie |
| Beckworth | Harrington |
| Blanchard | Hightower |

Jordan
Mauzy
McKool
Patman
Ratliff

Schwartz
Snelson
Wallace
Wilson

Hightower
Jordan
Mauzy
McKool
Patman
Sherman

Snelson
Wallace
Watson
Wilson
Word

Nays—13

Bernal
Bridges
Creighton
Grover
Hall
Harris
Herring

Kennard
Kothmann
Moore
Sherman
Watson
Word

Absent

Connally

Senator Bates offered the following amendment to the Committee Amendment:

Amend Sec. 3 of Committee Amendment No. 1, H. B. No. 928 by adding the following after the last paragraph thereof:

"The manager or other person in charge of the premises may allow temporary members to enter the club and enjoy its service and privileges for a period of not to exceed three (3) days per invitation. Such member must at the time of his admission pay the club a fee of \$2.50 which shall represent the fee of \$2.00 to the State of Texas and a contribution of \$0.50 to the permittee's pool or locker rental fund. All fees and payments for services from such members shall be collected in cash or through such credit cards as the Commission may approve. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this subsection."

The amendment to the Committee Amendment was read and was adopted by the following vote:

Yeas—16

Bates
Bernal
Blanchard
Bridges
Brooks
Connally
Grover
Hall

Harrington
Harris
Herring
Kennard
Kothmann
Moore
Ratliff
Schwartz

Nays—15

Aikin
Beckworth

Christie
Creighton

Senator Harris offered the following amendment to the Committee Amendment:

Amend Section 1 of Committee Amendment No. 1 of H. B. No. 928 by deleting quoted subsection (g) of quoted section 20d and substituting in lieu thereof the following:

"(g) It shall be unlawful for any Mixed Beverage Permittee, Daily Temporary Mixed Beverage Permittee or Private Club Registration Permittee to possess, or permit any person to possess on the premises, any distilled spirits in any container containing one-half ($\frac{1}{2}$) pint or more, unless such container shall bear a serially numbered identification stamp issued by the Commission. Such identification stamps shall be issued only to the holders of Local Distributors Permits. At the time of sale of any distilled spirits to the holder of a Mixed Beverage Permit, a Daily Temporary Mixed Beverage Permit or a Private Club Registration Permit, the Local Distributors Permittee shall supply to such purchasers one such identification stamp for each container of distilled spirits being purchased, if such containers are of a size to require such stamp under the provisions hereof, and it shall be the duty and responsibility of such purchaser to affix an identification stamp to each such container which he has purchased. Such stamps shall be affixed to such containers immediately after such containers are delivered to the premises of such purchaser and prior to the time that the seal on any such container has been broken. It shall be unlawful for such purchaser to transfer such stamps to any other permittee or to allow any other permittee to affix such stamps to any distilled spirits or to remove or cause to be removed the stamp from any container on which the seal has been broken. Holders of Local Distributors Permits shall record on each invoice covering a sale of distilled spirits to any Mixed Beverage Permittee, Daily Temporary Mixed Beverage Permittee or Private Club Registration Permittee, the serial numbers of all identification stamps delivered to the purchaser as a part

of such sale. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this subsection. The Commission or administrator may, after notice and hearing, suspend for a period not to exceed sixty (60) days or cancel the permit of any person who violates this subsection."

The amendment to the Committee Amendment was read.

Senator Christie moved to table the amendment.

Question on the motion to table, "Yeas" and "Nays" were demanded.

The motion to table prevailed by the following vote:

Yeas—22

| | |
|------------|---------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Moore |
| Bridges | Patman |
| Brooks | Ratliff |
| Christie | Sherman |
| Connally | Snelson |
| Creighton | Wallace |
| Harrington | Watson |
| Herring | Wilson |
| Hightower | Word |

Nays—8

| | |
|--------|----------|
| Bernal | Kothmann |
| Grover | Mauzy |
| Hall | McKool |
| Harris | Schwartz |

Absent

Blanchard

Senator Christie offered the following amendment to the Committee Amendment:

Amend Committee Amendment No. 1 to House Bill No. 928 as follows:

(1) Strike the words "from the sale" which appear between "if the receipts" and "are taxable" in the quoted Subsection (4) in Section (3) of the amendment.

(2) Strike Section (5) of the amendment and substitute the following:

(5) Add a new section 9a, immediately after Section 9 of the bill, to read as follows:

"Section 9a. The increase in the taxes imposed by Section 21, Article I, Texas Liquor Control Act, as

amended, provided in this Act, takes effect on July 1, 1971. The tax imposed by Section 20d of that article, added in Section 1 of this bill, takes effect on June 1, 1971."

The amendment was read and was adopted.

Senator Christie offered the following amendment to the Committee Amendment:

Amend Committee Amendment No. 1 to House Bill No. 928 by striking quoted Subsection (e) of Section 20d and substituting the following:

"(e) (1) The tax due for the preceding month shall accompany the return and shall be in the form of a cashier's check, certified check, or postal money order payable to the State of Texas. The Commission shall deposit these receipts in the state treasury to the credit of a special clearance fund to be known as the Mixed Beverages Tax Clearance Fund.

"(2) The Commission shall keep a record indicating the name of the establishment from which each return is received, the county and the incorporated city or town, if any, in which it is located, and the amount of the tax received. Before the end of the month following each calendar quarter, the Commission shall submit to the Comptroller of Public Accounts a report showing the total amount of taxes received during the quarter from establishments within each county and the total amount received from establishments within each incorporated city or town in each county.

"(3) As soon as possible after receipt of each quarterly report of the Commission, the Comptroller shall issue to each county a warrant drawn on the Mixed Beverage Tax Clearance Fund in the amount of 10 percent of receipts from establishments within the county during the quarter, and shall issue to each city or town a warrant drawn on that fund in the amount of 10 percent of receipts from establishments within the city or town during the quarter, as shown by the Commission's report. The remainder of the receipts for the quarter shall be transferred to the general revenue fund."

The amendment to the Committee Amendment was read.

Senator Hall offered the following substitute for the pending amendment to the Committee Amendment:

Amend Committee Amendment No. 1 to House Bill No. 928 by striking quoted Subsection (e) of Section 20d and substituting the following:

"(e) (1) The tax due for the preceding month shall accompany the return and shall be in the form of a cashier's check, certified check, or postal money order payable to the State of Texas. The Commission shall deposit these receipts in the state treasury to the credit of a special clearance fund to be known as the Mixed Beverage Tax Clearance Fund.

"(2) The Commission shall keep a record indicating the name of the establishment from which each return is received, the county and the incorporated city or town, if any, in which it is located, and the amount of the tax received. Before the end of the month following each calendar quarter, the Commission shall submit to the Comptroller of Public Accounts a report showing the total amount of taxes received during the quarter from establishments within each county and the total amount received from establishments within each incorporated city or town in each county.

"(3) As soon as possible after receipt of each quarterly report of the Commission, the Comptroller shall issue to each county a warrant drawn on the Mixed Beverage Tax Clearance Fund in the amount of 20 percent of receipts from establishments within the county during the quarter, and shall issue to each city or town a warrant drawn on that fund in the amount of 20 percent of receipts from establishments within the city or town during the quarter, as shown by the Commission's report. The remainder of the receipts for the quarter shall be transferred to the general revenue fund."

The substitute for the pending amendment to the Committee Amendment was read and was adopted by the following vote:

Yeas—24

| | |
|-----------|-----------|
| Aikin | Brooks |
| Beckworth | Connally |
| Bernal | Creighton |
| Blanchard | Grover |
| Bridges | Hall |

| | |
|------------|----------|
| Harrington | Moore |
| Harris | Ratliff |
| Herring | Schwartz |
| Hightower | Sherman |
| Kothmann | Wallace |
| Mauzy | Watson |
| McKool | Word |

Nays—7

| | |
|----------|---------|
| Bates | Patman |
| Christie | Snelson |
| Jordan | Wilson |
| Kennard | |

The amendment to the Committee Amendment as substituted was then adopted.

The Committee Amendment as amended was then adopted by the following vote:

Yeas—31

| | |
|------------|----------|
| Aikin | Jordan |
| Bates | Kennard |
| Beckworth | Kothmann |
| Bernal | Mauzy |
| Blanchard | McKool |
| Bridges | Moore |
| Brooks | Patman |
| Christie | Ratliff |
| Connally | Schwartz |
| Creighton | Sherman |
| Grover | Snelson |
| Hall | Wallace |
| Harrington | Watson |
| Harris | Wilson |
| Herring | Word |
| Hightower | |

Senator Wilson offered the following amendment to the bill:

Amend H. B. 928, as amended, by rewriting Section 5 to read as follows:

"Sec. 5. Section 23, Article II, Texas Liquor Control Act, as amended (Article 667-23, Vernon's Texas Penal Code), is amended to read as follows, effective July 1, 1971:

'Section 23. There is hereby levied and assessed a tax at the rate of Six Dollars (\$6) per barrel on the first sale of all beer manufactured in Texas and on the importation of all beer imported into this state.'

The amendment was read.

Pending discussion by Senator Wilson of the amendment, the President Pro Tempore occupied the Chair.

Question—Shall the amendment by Senator Wilson be adopted?

(President in Chair.)

Vote on Adoption of Committee Amendment to House Bill 928 Reconsidered

On motion of Senator Blanchard and by unanimous consent, the vote by which the Committee Amendment to H. B. No. 928 was adopted was reconsidered.

Question—Shall the Committee Amendment to H. B. No. 928 be adopted?

Vote by Which Senator Creighton's Amendment to the Committee Amendment to House Bill 928 Was Tabled Reconsidered

Senator Blanchard moved that the vote by which Senator Creighton's amendment to H. B. No. 928 was tabled be reconsidered.

The motion prevailed.

Record of Votes

Senators Wilson, Christie and Mauzy asked to be recorded as voting "Nay" on the motion to reconsider the vote by which the amendment was tabled.

Question—Shall the amendment by Senator Creighton to the Committee Amendment to H. B. No. 928 be adopted?

Senator Creighton again offered the following amendment to the Committee Amendment:

Amend paragraph (a), Subsection (1), Section 21, Article I, Texas Liquor Control Act, as amended, as quoted in Section 4 of Committee Amendment to House Bill 928 to read as follows:

"(a) A tax of \$1.95 per gallon on each gallon of distilled spirits, providing the minimum tax on any package of distilled spirits containing not less than ½ pint shall be \$.122 and the tax on any package containing 2 ounces or less shall be \$.05."

The amendment to the Committee Amendment was read and was adopted by the following vote:

Yeas—15

| | |
|------------|----------|
| Bates | Herring |
| Beckworth | Kennard |
| Bernal | Kothmann |
| Blanchard | McKool |
| Bridges | Moore |
| Creighton | Sherman |
| Harrington | Watson |
| Harris | |

Nays—11

| | |
|-----------|----------|
| Aikin | Ratliff |
| Christie | Schwartz |
| Hall | Wallace |
| Hightower | Wilson |
| Mauzy | Word |
| Patman | |

Absent

| | |
|----------|---------|
| Brooks | Jordan |
| Connally | Snelson |
| Grover | |

Vote on Adoption of Senator's Hall's Amendment to the Committee Amendment to House Bill 928 Reconsidered

On motion of Senator Hall and by unanimous consent, the vote by which his amendment to the Committee Amendment to H. B. No. 928 was adopted was reconsidered.

Question—Shall Senator Hall's amendment to the Committee Amendment to H. B. No. 928 be adopted?

On motion of Senator Hall and by unanimous consent, the amendment was withdrawn.

Senator Hall offered the following amendment to the Committee Amendment to the bill:

Amend Committee Amendment No. 1 to House Bill No. 928 by striking quoted Subsection (e) of Section 20d and substituting the following:

"(e) (1) The tax due for the preceding month shall accompany the return and shall be in the form of a cashier's check, certified check, or postal money order payable to the State of Texas. The Commission shall deposit these receipts in the state treasury to the credit of a special clearance fund to be known as the Mixed Beverage Tax Clearance Fund.

"(2) The Commission shall keep a record indicating the name of the establishment from which each return

is received, the county and the incorporated city or town, if any, in which it is located, and the amount of the tax received. Before the end of the month following each calendar quarter, the Commission shall submit to the Comptroller of Public Accounts a report showing the total amount of taxes received during the quarter from establishments within each county and the total amount received from establishments within each incorporated city or town in each county.

"(3) As soon as possible after receipt of each quarterly report of the Commission, the Comptroller shall issue to each county a warrant drawn on the Mixed Beverage Tax Clearance Fund in the amount of 15 (Fifteen) percent of receipts from establishments within the county during the quarter, and shall issue to each city or town a warrant drawn on that fund in the amount of 15 (Fifteen) percent of receipts from establishments within the County during the quarter and shall issue to each city or town a warrant drawn on that fund in the amount of fifteen (15) percent of receipts from establishments within the city or town during the quarter, as shown by the Commission's report. The remainder of the receipts for the quarter shall be transferred to the general revenue fund."

The amendment to the Committee Amendment was read and was adopted.

The Committee Amendment as amended was then adopted.

Question—Shall the amendment by Senator Wilson to H. B. No. 928 be adopted?

Question on the adoption of the amendment, "Yeas" and "Nays" were demanded.

The amendment failed of adoption by the following vote:

Yeas—8

| | |
|-----------|-----------|
| Aikin | Hightower |
| Beckworth | Mauzy |
| Brooks | Wallace |
| Hall | Wilson |

Nays—21

| | |
|--------|-----------|
| Bates | Blanchard |
| Bernal | Bridges |

| | |
|------------|----------|
| Christie | Kothmann |
| Connally | McKool |
| Creighton | Moore |
| Grover | Patman |
| Harrington | Schwartz |
| Harris | Snelson |
| Herring | Watson |
| Jordan | Word |
| Kennard | |

Absent

| | |
|---------|---------|
| Ratliff | Sherman |
|---------|---------|

On motion of Senator Christie and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

Record of Vote

Senator Wallace asked to be recorded as voting "Nay" on the passage of the bill to third reading.

House Bill 928 on Third Reading

Senator Christie moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that H. B. No. 928 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—23

| | |
|------------|-----------|
| Aikin | Hightower |
| Bates | Jordan |
| Bernal | Kothmann |
| Blanchard | McKool |
| Christie | Moore |
| Connally | Patman |
| Creighton | Schwartz |
| Grover | Snelson |
| Hall | Watson |
| Harrington | Wilson |
| Harris | Word |
| Herring | |

Nays—5

| | |
|-----------|---------|
| Beckworth | Mauzy |
| Bridges | Wallace |
| Brooks | |

Absent

| | |
|---------|---------|
| Kennard | Sherman |
| Ratliff | |

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—28

| | |
|------------|-----------|
| Aikin | Herring |
| Bates | Hightower |
| Beckworth | Jordan |
| Bernal | Kennard |
| Blanchard | Kothmann |
| Bridges | Mauzy |
| Brooks | McKool |
| Christie | Moore |
| Connally | Patman |
| Creighton | Schwartz |
| Grover | Snelson |
| Hall | Watson |
| Harrington | Wilson |
| Harris | Word |

Nays—1

Wallace

Absent

Ratliff Sherman

Senate Bill 477 Recommitted

On motion of Senator Bernal and by unanimous consent, S. B. No. 477 was recommitted to the Committee on State Affairs.

Memorial Resolutions

S. R. No. 1344—By Senator Blanchard: Memorial resolution for Mrs. Cora Dell Hartwell.

S. R. No. 1353—By Senator Herring: Memorial resolution for James C. Tuttle.

S. R. No. 1354—By Senator Herring: Memorial resolution for Frank E. Montgomery.

Welcome and Congratulatory Resolutions

S. C. R. No. 114—By Senator Wilson: Designating July, August and September, 1971, as "Keep Texas Homes Beautiful" months.

S. C. R. No. 115—By Senator Herring: Commending donors of McKinney Falls State Park.

H. C. R. No. 165—Congratulating the People's State Bank of Baytown on its 35th anniversary.

S. R. No. 1340—By Senator Wilson: Extending commendation to Silsbee junior varsity girls' volleyball team.

S. R. No. 1341—By Senator Wilson: Extending congratulations to Brookeland Wildcats, winner of District 30-B track meet.

S. R. No. 1342—By Senator Wilson: Extending commendation to 1971 Lufkin Panther baseball team.

S. R. No. 1343—By Senator Wilson: Extending congratulations to San Augustine Wolves, winner of District 9-AA baseball championship.

S. R. No. 1345—By Senator Snelson: Extending congratulations to James "Doc" Dodson, selected as a trainer for the U.S. Olympic athletes for the 1972 Summer Olympics.

S. R. No. 1346—By Senator Schwartz: Extending congratulations to Mr. and Mrs. Richard B. Millard on their 50th wedding anniversary.

S. R. No. 1348—By Senator Snelson: Commemorating Ludwig Von Beethoven for his profound influence on the world of music.

S. R. No. 1349—By Senator Creighton: Extending welcome to Bill Echols and his daughter, Mrs. Charles Brightwell.

S. R. No. 1350—By Senator Schwartz: Extending welcome to Mr. and Mrs. Maurice Nevelow and their children.

S. R. No. 1351—By Senator Aikin: Extending appreciation to State Soil and Water Conservation Board for naming the flood control project of Deport Creek the Tom Jeffus Water Retention Structure.

S. R. No. 1352—By Senator Herring: Commending Dr. Beverly Sutton for her service to the State of Texas.

Adjournment

On motion of Senator Aikin the Senate at 8:55 o'clock p.m. adjourned until 10:00 o'clock a.m. tomorrow.

SEVENTY-FIFTH DAY

(Tuesday, May 25, 1971)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President Pro Tempore.